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STATE OF MICHIGAN RECEIVED  
THE RECORDER'S COURT  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE  
THE PEOPLE OF THE STATE OF MICHIGAN APPELLATE DIVISION  
SEP 29 PM 12:28

Plaintiff,

-vs-

Case No. 92 1856

CARL HUBBARD,

Defendant,

WATVER TRIAL

PROCEEDINGS HAD AND TESTIMONY TAKEN in the  
above-entitled cause, before the HONORABLE RICHARD P.  
HATHAWAY, Judge, Third Judicial Circuit, at 202  
Recorder's Court Building, Detroit, Wayne County,  
Michigan, on Wednesday, September 2, 1992.

APPEARANCES:

MR. JAMES GONZALES, Esq.,

On behalf of the People.

MR. RONALD GILES, Esq.,

On behalf of the Defendant.

RECEIVED  
FEB 16 1994  
COURT OF APPEALS

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MAR 29 1993  
THE RECORDERS COURT  
APPELLATE DIVISION

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E X H I B I T S

Indentification

Marked

Received

Detroit, Michigan

Wednesday, September 2,

1992.

-- -- --

THE CLERK: People versus Mr. Carl  
Hubbard.

Mr. Hubbard is here today for  
purposes of continuation of a waiver trial.

MR. GONZALES: James Gonzales for  
the People.

MR. GILES: Good morning, Your  
Honor. Ronald Giles appearing on behalf of Carl  
Hubbard.

THE COURT: Do you have a witness  
at this time, Mr. Gonzales?

MR. GONZALES: I do, Your Honor.  
I'd like to call Christopher Harris  
to the stand.

C H R I S T O P H E R   H A R R I S

called as a witness by the  
People, being duly sworn by the  
Court Clerk, was examined and testified



1 upon his oath, as follows:

2  
3 DIRECT EXAMINATION  
4

5 BY MR. GONZALES:

6 Q. Good morning, sir.

7 Please state your name for the  
8 record?

9 A. Christopher Harris.

10 Q. Mr. Harris, I'd like to call your attention to the  
11 dates of January 16 and 17 of 1992.

12 How old were you then, sir?

13 A. I was 22 years old.

14 Q. How old are you today?

15 A. Twenty-three.

16 Q. Mr. Harris, on that date in time did you have occasion  
17 to know someone by the name of Rodnell Penn?

18 A. Yes, I did. He was my cousin.

19 Q. So how long had you known him before that date in time  
20 approximately?

21 A. All of his life.

22 Q. Okay.

23 Now, also on that date in time, did  
24 you have occasion to know someone by the name of,  
25 nickname of Goff?

1 A. Yes.

2 Q. And do you see that person in Court here today?

3 A. Yes, I do.

4 Q. Would you please point and tell me what color clothes  
5 he's wearing?

6 A. The gentleman in the -- in the shirt right there.  
7 (indicating).

8 MR. GONZALES: Witness points to  
9 and identified for the record the defendant in this  
10 matter, Carl Hubbard.

11 BY MR. GONZALES:

12 Q. How long prior to this date in time had you known Mr.  
13 Hubbard?

14 A. I saw him one time and just met him by name about, five  
15 or six years ago.

16 Q. Okay. Mr. Harris, I'd like to call your attention to  
17 the date of January 16th, 1992.

18 Particularly on that date, sir, did  
19 you have occasion to see Mr. Rodnell Penn?

20 A. Yes, I did.

21 Q. In fact do you know where he spent the night that  
22 night?

23 A. Yes, he did. 2:00 a.m. Friday morning.

24 Q. Where did he spend the night at?

25 A. At my home.

1 Q. And what street was that then?

2 A. Rosemont.

3 Q. Okay.

4 And did you have a conversation

5 with him that night?

6 A. Yes, sir, we did.

7 Q. And, if you know, based on that conversation the next  
8 day, January 17th, 1992, that Friday, did you have  
9 occasion to go anywhere?

10 A. Yes, I did.

11 Q. Where did you go?

12 A. We, myself and a friend of mine, Mr. Winston Green got  
13 Ron -- dropped Rodnell over at Cadillac Square. He was  
14 to catch the Mack bus.

15 Q. Were you the driver?

16 A. No, I was not.

17 Q. Okay.

18 And did you go with Mr. Penn for  
19 purposes of dropping him off?

20 A. Yes, I did.

21 Q. And where did you drop him off at particularly?

22 A. The Cadillac Square.

23 Q. Okay.

24 And anywhere -- now you indicated  
25 a bus. Anywhere in relation to the bus stop?

1 A. The Mack bus stop.

2 Q. Okay.

3 What was your understanding of the  
4 reason why you were dropping him off at the Mack bus  
5 drop.

6 MR. GILES: Your Honor, I am going  
7 to object to that question. And ask some type of  
8 foundation because it could possibly call for hearsay.

9 MR. GONZALES: I didn't ask for any  
10 quotes.

11 I asked what was his state of mind  
12 for dropping him off.

13 THE COURT: I will take his answer,  
14 as long as it is his state of mind.

15 THE WITNESS: I saw him get on the  
16 Mack bus and he had -- it was indicated to --  
17 indicated to me that --

18 MR. GILES: Your Honor, I will  
19 object to that part of the answer as hearsay.

20 THE COURT: I agree. Let's not ask  
21 for any hearsay.

22 MR. GONZALES: I will rephrase the  
23 question.

24 BY MR. GONZALES:

25 Q. Was -- what was your understanding of the reason why

1           you dropped him off?

2           A.   He was going to pay some money.

3                           MR. GILES:   Again, I am going to  
4           object to the answer as possibly hearsay without any  
5           further foundation.

6                           He's telling you what the witness  
7           is going to do.

8                           THE COURT:   Tell us what you saw.  
9           Tell us what you did.   Don't tell us what somebody told  
10          you.

11       BY MR. GONZALES:

12       Q.   Let me ask the question.

13                           You dropped him off at a particular  
14          place?

15       A.   Yes, I did.

16       Q.   Where did you drop him off at?

17       A.   Cadillac Square Bus Terminable.

18       Q.   Why did you drop him off there?

19       A.   I dropped him off so he could get on the Mack Bus.

20       Q.   Okay.

21                           And did you have a conversation  
22          with him before you dropped him off at the Mack Bus?

23       A.   Yes.

24       Q.   And what day was this in time?

25       A.   This was is January 17th at approximately four

1 thirty-five, 5 o'clock.

2 Q. Now, during your conversation with Mr. Penn before you  
3 dropped him off, did you make any plans to meet him  
4 again?

5 A. Yes, I did.

6 Q. What time were you to meet him again?

7 A. 9:00 that evening.

8 Q. And what were you to do with him again?

9 A. He was going to help me setup for a hall party I was  
10 doing.

11 Q. Was the 9:00 meeting in order for him to help you with  
12 setting up of the cabaret,?

13 A. No. He never showed up.

14 Q. I know. But was that meeting for that purpose?

15 A. Yes.

16 Q. Now, what was the reason why you set 9:00 to meet him?

17 A. Well, because my hall party was starting shortly  
18 afterwards.

19 Q. Okay.

20 And what was the reason why you  
21 asked Marcus -- excuse me. You asked Mr. Penn, Rodnell  
22 Penn to meet you at '9 o'clock?

23 A. Because he had indicated that.

24 MR. GILES: Your Honor, I will  
25 object at this point.

1 THE COURT: I agree. Let's not ask  
2 for any hearsay.

3 BY MR. GONZALES:

4 Q. What was going -- Mr. Harris, I am asking a very  
5 specific question.

6 What was your reasoning in your  
7 mind for setting a 9:00 meeting with Rodnell Penn?

8 A. I thought that he had to go and drop some money off.

9 Q. Where at?

10 A. He said he was going to --

11 Q. Well --

12 MR. GILES: Objection, Your Honor.

13 THE COURT: That will be sustained.

14 BY MR. GONZALES:

15 Q. Was your understanding of where he was to go anywhere  
16 near where you were supposed to meet him?

17 A. I'm sorry?

18 Q. Okay.

19 Was your understanding as to where  
20 Christopher Harris was to go anywhere near where you  
21 were supposed to meet him at 9:00? Were they near each  
22 other?

23 A. No.

24 Q. Okay.

25 Did that have anything to do with

1           why you set 9:00?

2       A.   Yes, because --

3       Q.   Why was that?  Can you explain why?

4       A.   Because I had to give him time to get to me.

5       Q.   Okay.

6                               What was your understanding of why  
7       you had to give him time?

8       A.   I thought that he had other business to take care of  
9       which was the reason I dropped him off at Cadillac  
10      square.

11      Q.   This other business that he had to take care of, was  
12      this other business in your mind going to be anywhere  
13      near the 9:00 meeting at the hall?

14      A.   I thought that maybe his business would be, would be  
15      finished by 9, 8:30.

16                               So I thought he would have time to  
17      make it to the hall.

18      Q.   Okay.

19                               Is that why you set the 9:00  
20      o'clock?

21      A.   Yes, it is.

22      Q.   Okay.

23                               Now, did you know where Mr. Penn  
24      was to go?

25      A.   Yes.



1 Q. Where was he supposed to go in your mind?

2 A. He was going to --

3 MR. GILES: I am going to object at  
4 this point without further foundation.

5 It calls for an answer that draws  
6 upon hearsay.

7 MR. GONZALES: Judge, again this is  
8 all related to what his state of mind as setting the  
9 time at 9:00. So he had to know how long he was going  
10 to be gone and where in relation he was going to be.

11 THE COURT: As long as he didn't  
12 get it from somebody else.

13 MR. GILES: That knowledge will be  
14 based upon this alleged conversation that he had with  
15 somebody else outside this Court.

16 MR. GONZALES: Is that doesn't make  
17 it admissible, it is his state of mind.

18 MR. GILES: It is hearsay.

19 THE COURT: Objection will be  
20 sustained.

21 BY MR. GONZALES:

22 Q. Did you know that your cousin Rodnell Penn was involved  
23 in the sale of drugs?

24 A. Yes, I did.

25 Q. Did you know that on January 17th, 1992?

1 A. Yes.

2 Q. And did you know that on this particular evening?

3 A. Yes.

4 Q. What was your understanding of the reason why Mr. Penn  
5 was going to take the Mack Bus?

6 MR. GILES: Your Honor, I am going  
7 to object to the question as basically no difference  
8 than the question I just objected to.

9 He's still asking for this  
10 witness -- although he's asking for this witness' frame  
11 of mind is based on information that thusfar have not  
12 received any legitimate foundation and is based on  
13 hearsay.

14 THE COURT: Sounds like you are  
15 asking for hearsay. So this Court -- even though it is  
16 his state of mind, that he initially got it probably  
17 from somebody else.

18 MR. GONZALES: I will ask him if he  
19 got it from anyone else.

20 BY MR. GONZALES:

21 Q. Sir, did you ever have occasion to observe Mr. Penn,  
22 Rodnell Penn, your cousin, being involved in the sale  
23 of drugs?

24 A. Yes, I did.

25 Q. On more than one occasion?

1 A. Yes.

2 Q. And if you know, sir, did you ever have occasion to  
3 observe Mr. Carl Hubbard, the person who is Goff  
4 involved in the sale of drugs?

5 A. As far as I know, no.

6 Q. Okay.

7 If you know, sir, did you observe  
8 Mr. Penn with any money?

9 A. Yes, I did.

10 Q. And approximately when was this?

11 A. This was January 17th, 1992.

12 Q. About what time, approximately?

13 A. Between 2:00 a.m. and 2:30 p.m..

14 Q. And approximately how much money did you observe there  
15 that he had?

16 A. Anywhere from a hundred and ninety-five to two hundred  
17 dollars.

18 Q. Did you see him in any way dispose of that money  
19 between the time you saw him with that money about two,  
20 three in the morning until the time you dropped him off  
21 later the next day or the very same day -- excuse me --  
22 later the same day at approximately, as you indicated  
23 4:30?

24 A. No.

25 Q. Were you with him that whole time?

1 A. Yes.

2 Q Okay..

3 Q. Thank you.

4 MR. GONZALES: No further questions  
5 of this witness, Judge.

6 THE COURT: Any cross-examination,  
7 Mr. Giles.

8 MR. GILES: Yes, Your Honor, just a  
9 couple of questions.

10 .  
11 MR. GILES: One second, Your Honor.

12 May I have a moment?

13 THE COURT: Yes.

14  
15 (A discussion was held off the  
16 record between defense counsel and  
17 defendant.)

18  
19 CROSS-EXAMINATION

20  
21 BY MR. GILES:

22 Q. Good morning, Mr. Harris?

23 A. Good morning.

24 Q. Mr. Harris, you testified on direct examination you  
25 have met Mr. Hubbard on on one occasion; is that

1 correct?

2 A. Yes, this is true.

3 Q. And that was approximately five or six years ago; is  
4 that correct?

5 A. Yes.

6 Q. So that would make you approximately sixteen,  
7 seventeen, around that age?

8 A. Somewhere around there, yes.

9 Q. Okay.

10 The one time that you met Mr.  
11 Hubbard before, how long -- how much time did you spend  
12 with him?

13 A. It was just vision only thing. It was an introduction.

14 Q. Okay.

15 So you were with someone and they  
16 said this is Carl Hubbard or, this is Goff, or  
17 something along those lines?

18 A. Yes, that's right.

19 Q. And you went about your business?

20 A. Yes, I did.

21 Q. And he went about his?

22 A. Exactly.

23 Q. And you haven't seen him since; is that correct?

24 A. Yes.

25 Q. Okay.

1 So you may have spent thirty  
2 seconds with him, a minute, approximately?

3 A. Somewhere around in there.

4 Q. Thank you.

5 MR. GILES: No further questions.

6 THE COURT: Anything else.

7 MR. GONZALES: Nothing, Judge.

8 THE COURT: You can step down.

9 Thank you.

10

11 MR. GONZALES: I will call my next  
12 witness, Your Honor.

13 S H A N N O N H O L C O M B

14

15 called as a witness by the People,  
16 being duly sworn by the Court Clerk,  
17 was examined and testified upon her  
18 oath, as follows:

19 DIRECT EXAMINATION

20

21 BY MR. GONZALES:

22 Q. Good morning, ma'am. Please state your name for the  
23 record?

24 A. Shannon Holcomb.

25 Q. How old are you, Miss Holcomb?

1 A. Twenty-one.

2 Q. Police Holcomb, I'd like to ask you if you knew a  
3 person by the name of Rodnell Penn?

4 A. Yes.

5 Q. Did you know him on January 16th, and 17th, 1991?

6 A. Yes, I did.

7 Q. Excuse me, 1992?

8 A. Yes.

9 Q. Yes?

10 A. Yes.

11 Q. Had you known him for some period of time before that  
12 date?

13 A. Yes.

14 Q. On that date in time, ma'am, did you also know a person  
15 by the name of Goff?

16 A. No.

17 Q. Okay.

18 Had you ever heard that name  
19 before?

20 A. No.

21 Q. Okay.

22 On Thursday, January 16th, 1992,  
23 did you have occasion to see Rodnell Penn?

24 A. Yes.

25 Q. Approximately what time did you see him on that day?

1 A. The 16th, you mean.

2 Q. Yes.

3 A. I saw him early that morning about 8:30.

4 Q. Did there come another time that you saw him again?

5 A. No.

6 Q. Okay.

7 A. When you saw him at about 8:30, you indicated what was  
8 he doing?

9 A. He was eating breakfast and sitting down and watching  
10 T.V. with me, talking to me.

11 Q. Did there come a time when you saw him leave?

12 A. Yes.

13 Q. What time did you see him leave?

14 A. He left my house about 12:30, 1 o'clock.

15 Q. Okay.

16 And did you have any conversation  
17 with him while he was at your place?

18 A. Yes.

19 Q. Okay.

20 Were you supposed to see him again?

21 A. Yes.

22 Q. Were you supposed to talk to him again?

23 A. Yes.

24 Q. Did there in fact come a time when you did have  
25 occasion to talk to him later?



1 A. Yes.

2 Q. Did there come another time when you actually saw him  
3 again or not?

4 A. No.

5 Q. Okay.

6 When was the next time that you  
7 spoke with him?

8 A. It was Friday night, Friday, on the 17th.

9 Q. Approximately what time?

10 A. Nine. It was about 9:20 when he called. 9:20, 9:25,  
11 something like that.

12 Q. Where were you at when he called?

13 A. I was at home.

14 Q. Was there anything unusual about this particular phone  
15 call?

16 A. Yes.

17 Q. What was that?

18 A. For one, he was -- he sounded like he was very happy.

19 And I kept asking him why you so  
20 happy because usually he just -- he --.

21 Q. (Interposing) Let me ask you this.

22 When you say he was very happy,  
23 what, if anything, what sounds was he making that you  
24 thought were unusual?

25 A. He kept rushing like he was rushing off the phone. I

1 kept asking him why you keep rushing me off the  
2 telephone?

3 He said he had to do something.

4 He said I will call you later but I  
5 am going to get off the phone now.

6 MR. GILES: I am going to object to  
7 any hearsay remarks.

8 MR. GONZALES: Judge, I am trying  
9 to lay a foundation for excited utterances.

10 THE COURT: All right. Go ahead.

11 BY MR. GONZALES:

12 Q. Now, how long did this conversation last?

13 A. About five minutes.

14 Q. Okay.

15 And throughout the period of time  
16 five minutes, did you speak with Mr. Penn on the phone,  
17 ma'am?

18 A. Yes.

19 Q. Okay.

20 Did you talk to anybody else on  
21 that phone conversation?

22 A. No.

23 Q. Did you hear anybody else's voice beside Mr. Penn on  
24 that phone conversation?

25 A. Yes.

1 Q. Okay.

2 A. Did you recognize that voice at all?

3 A. No.

4 Q. Is that a voice you had -- you had ever heard before as  
5 far as you knew?

6 A. No.

7 Q. Other than that other voice -- strike that.

8 That other voice, did you ever  
9 speak with that person on the phone?

10 A. No.

11 Q. What were the circumstances of your hearing this other  
12 voice?

13 A. I heard someone rushing him off the phone.

14 Q. Okay.

15 And when you say: Rushing him off  
16 the phone, is this during the time that you are  
17 speaking with Rodnell?

18 A. Yes.

19 Q. Okay.

20 Now, during the time that you are  
21 speaking with Rodnell, how would you characterize the  
22 manner of his speaking?

23 A. Rodnell or --

24 Q. Yes, Rodnell.

25 A. Well, I have to hurry up and go; I have to go, like

1           that. That's what he was telling me.

2           Q. Okay.

3                               And the way he spoke those words,  
4           was that same way he spoke to you in the past, or was  
5           that different than the way he spoke with you in the  
6           past?

7           A. Different.

8           Q. Different in what manner?

9           A. He never rushed me off the phone, for one. And  
10          basically that's about all.

11                           He always tell me, tell me he love  
12          me after every conversation. But he didn't get a  
13          chance.

14          Q. When you say he didn't get a chance. What did he do  
15          instead of giving you a chance?

16          A. He hung up.

17          Q. Okay. Now, who called who?

18          A. He called me.

19          Q. And was it your understanding that he was to call you  
20          at that time?

21          A. No.

22          Q. Okay.

23                           When he spoke with you, were you  
24          able to hear all of his words?

25          A. Yes.

1 Q. When you listened to him did -- strike that.

2 When you listened to him and you  
3 heard his words, what did his mental condition sound  
4 like to you?

5 A. Sounded like he was happy at the time.

6 Q. Anything else?

7 A. He was just rushing off the phone. He got off so fast.

8 Q. Okay.

9 Did you have any understanding  
10 about whether or not you were to meet with him or speak  
11 with him again later?

12 A. Yes.

13 Q. Okay.

14 A. He told me that.

15 Q. I am not asking you what he said.

16 MR. GILES: Objection.

17

18 MR. GONZALES: All I am asking is  
19 for his state of mind as to what she was planning on  
20 doing next, if anything with Mr. Penn.

21 MR. GILES: That state of mind is  
22 still based on another conversation with a person  
23 outside of this courtroom.

24 MR. GONZALES: That's an exception  
25 to hearsay.

1 THE COURT: What is the exception,  
2 state of mind?

3 MR. GONZALES: Yes.

4 MR. GILES: Excited utterance?

5 THE COURT: You can ask her if she  
6 was to meet up with him later.

7 MR. GONZALES: All right.

8 BY MR. GONZALES:

9 Q. Were you supposed to meet up with him later?

10 A. Yes.

11 Q. When were you supposed to finish?

12 A. After he got done with whatever he was doing, he told  
13 me he was going to come over to my house about 11:00.

14 Q. Did he ever show?

15 A. No.

16 Q. All right.

17 Judge, I am going to ask that the  
18 content of the conversation; and I would base it on a  
19 combination of the state of mind exception as well as  
20 excited utterances exception.

21 MR. GILES: Your Honor, I am going  
22 to object.

23 Several reasons. As far as state  
24 of mind exception, this witness has already testified  
25 that the conversation lasted five minutes at most.

1                   So very short period and I doubt if  
2                   she had the opportunity to determine what the other  
3                   person's state of mind was, as far as excited  
4                   utterance, Judge, there's a foundation to be laid.

5                   The only foundation has been that  
6                   the person on the other end of the phone sounded happy.  
7                   And obviously, and over the phone; I don't think that  
8                   falls into any area of excited utterances.

9                   THE COURT: I think that the  
10                  foundation has not been laid.

11                  I think for excited utterance  
12                  exception there has to be some type of startling event  
13                  that makes the particular person that wants to testify  
14                  about the event, has to be spontaneous, has to show  
15                  some type of excitement.

16                  I think defense counsel has  
17                  basically stated that all this witness said thus far is  
18                  is that the person that she talked to was in her mind  
19                  happy; and rushed along.

20                  So I don't think the foundation has  
21                  been laid.

22                  MR. GONZALES: Thank you, Your  
23                  Honor. I will move on.

24 BY MR. GONZALES:

25 Q. Did you have occasion prior to seeing Mr. Penn leave

1           your home, observe whether or not he had any money?

2       A.   Yes.

3       Q.   And this is on the 16th?

4       A.   Yes.

5       Q.   How much money did you see him have, ma'am?

6       A.   About at the time, about, I would say, two hundred, two  
7           fifty, something like that.

8       Q.   This phone conversation you indicated you heard another  
9           voice other than Mr. Penn's?

10      A.   Yes.

11      Q.   But you didn't speak with this other person; is that  
12           correct?

13      A.   Right.

14      Q.   Was that other voice, did you hear how many other  
15           voices, one or more or what?

16      A.   One.

17      Q.   And this phone conversation -- this phone conversation,  
18           was it, if you know, was it a phone conversation that  
19           Rodnell was calling from a normal phone or from like an  
20           outdoor, at a pay phone, if you can hear?

21      A.   Outdoors.

22      Q.   Did you hear that?

23      A.   Yes.

24      Q.   What did you hear that made you believe it was  
25           outdoors?



1 A. I heard like static, wind passing the phone; wind  
2 passing the phone, or something like that.

3 Q. And how long later was it your understanding you were  
4 to speak again with Rodnell?

5 A. About ten minutes after he hung up from me.

6 Q. And ten minutes after he hung up from you, what were  
7 you expecting to happen?

8 A. For him to come over. I was expecting for him to come  
9 over or call.

10 Q. Okay.

11 What street are you talking about?

12 A. On Troester (sp) Street.

13 Q. How far away is that where he was supposed -- how far  
14 away is that area from the area of Mack and Gray, if  
15 you know?

16 A. I don't know.

17 Q. Thank you.

18 MR. GONZALES: No further  
19 questions, Judge.

20 MR. GILES: Just a few questions,  
21 Your Honor.

22 CROSS-EXAMINATION

23  
24 BY MR. GILES:

25 Q. Good morning, Miss Holcomb.

1                   You testified on direct examination  
2                   that when you had the conversation with Rodnell over  
3                   the phone that you heard one other voice.

4                   Are you sure you only heard one  
5                   other voice?

6           A.   Yes.

7           Q.   Okay.

8                   MR. GILES:   May I approach the  
9                   witness, Your Honor?

10                  THE COURT:   Go right ahead.

11           BY MR. GILES:

12           Q.   Do you recall giving testimony -- giving a statement to  
13                   the police?

14           A.   Yes.

15           Q.   And I am going to show you a statement.  Is that your  
16                   signature?

17           A.   Yes.

18           Q.   Is this also your signature on the second page of the  
19                   statement?

20           A.   Yes.

21           Q.   Is that your signature on the third page of the  
22                   statement?

23           A.   Yes.

24           Q.   Is that your signature on the fourth page?

25           A.   Yes.

1 Q. Do you recall when you made this statement, the officer  
2 asking you the question: Did you hear more than one  
3 voice talking to Rodnell.

4 Do you remember your answer being:  
5 I could hear two voices in the background. It was like  
6 one guy would speak to Rodnell and the voice and  
7 another voice would have some conversation.

8 Do you recall making that  
9 statement?

10 A. Yes.

11 Q. Is it still your testimony today that you only heard  
12 one voice?

13 A. Right.

14 Q. So then when you talked to the police, you lied; is  
15 that correct?

16 A. No.

17 Well, that's what I said in the  
18 statement but I called her about it. I said two days  
19 later and told her that I had to make some changes  
20 about the name and about the voice that I said on  
21 there.

22 She told me I could clear that up  
23 in court.

24 Q. Okay.

25 So this statement you made that you

1           heard two voices, that's not the truth; is it?

2           A.   No.

3           Q.   When did you find out that Rodnell was dead -- had  
4           died?

5           A.   Sunday.

6           Q.   Okay.

7                               From the time that you first made  
8           this statement from the time that you allegedly called  
9           the Sergeant to clear up your statement, did you talk  
10          to anybody about this, about the incident, about  
11          Rodnell's death?

12          A.   Talked to my mother, yes.

13          Q.   She's the only one you talked to?

14          A.   And my grandfather.

15          Q.   Anyone else?

16          A.   And his brother.

17          Q.   Whose brother?

18          A.   Rodnell's brother.

19          Q.   It is also your testimony on direct examination, that  
20          you thought Rodnell was talking to you on the phone was  
21          outside; is that correct?

22          A.   Right.

23          Q.   I will ask you to -- when you talked to the officer in  
24          making this statement, where did you think Rodnell was  
25          calling from?

1 A. From a telephone booth.

2 Q. Outside?

3 A. Outside.

4 Q. I am going to ask you to read part of your statement

5 hear. This is starting with your answer. Would you

6 start here?

7 A. Okay. Then Rodnell hung up.

8 MR. GONZALES: I'd ask that she

9 reads to herself.

10 THE COURT: Read it quietly to

11 yourself and then the attorneys will ask some questions

12 to you about that.

13 THE WITNESS: Okay.

14 BY MR. GILES:

15 Q. Right here again, ma'am?

16 A. Okay.

17 Q. Why don't you read the next couple of lines, too.

18 A. Okay.

19 Q. Does reading that statement help you to remember what

20 you said to the officer?

21 A. That's what I --

22 Q. (Interposing) Just answer the question, please.

23 Isn't it true that you thought

24 Rodnell was calling you from someone's house when you

25 spoke to the officer and made this statement?

1 A. No.

2 Q. It is not true?

3 A. No, sir..

4 Q. Isn't it true that what you told the officer was you  
5 thought he was calling from someone's house?

6 A. No.

7 Q. Again, I am going to ask you to read the last three  
8 lines.

9 A. Okay.

10 Q. Is it true that part of your answer to the officer was  
11 I think he was inside on the phone because I could hear  
12 other people talking?

13 A. Yes.

14 Q. Thank you.

15 MR. GILES: No further questions,  
16 Your Honor.

17 REDIRECT EXAMINATION

18  
19 BY MR. GONZALES:

20 Q. Ma'am, when you said inside, what did you mean, inside  
21 of what?

22 A. Like a store or something like that.

23 Q. Where did you think he was calling you from?

24 A. The store outside on the telephone from the store or  
25 something like that.

1 Q. What store is that?

2 A. Mack and Gray.

3 Q. Okay.

4 MR. GONZALES: No further questions.

5 Thank you, ma'am.

6 MR. GILES: Just a couple, Your

7 Honor.

8 RECROSS-EXAMINATION

9

10 BY MR. GILES:

11 Q. Okay.

12 Answering the prosecutor's question, you

13 said inside the store or outside the store.

14 What is your answer?

15 A. No.

16 He asked me where did I think he was

17 calling from. I said a store.

18 Q. At a store?

19 A. At a store.

20 Q. Inside?

21 A. Inside or out. It was still at a pay phone. That's  
22 how I figured.

23 Q. Okay.

24 And you said that the store was on

25 Mack and Gray?

1 A. Right.

2 Q. You know it was on Mack and Gray?

3 A. No.

4 Q. Thank you.

5 No further question, Your Honor.

6 THE COURT: Anything further?

7 MR. GILES: No further questions,

8 Your Honor.

9 MR. GONZALES: Nothing else, Judge.

10 THE COURT: You can step down,

11 thank you.

12 MR. GONZALES: Last witness, Judge.

13

14 MR. GONZALES: Let me indicate that

15 I recall Curtis Collins to the stand. And I provided  
16 counsel with a new statement that Mr. Collins has given  
17 to Sergeant Ron Gale, G-a-l-e. Of the Detroit Police  
18 homicide section.

19 MR. GILES: Your Honor, I am in  
20 receipt of this statement, Your Honor.

21 THE COURT: Thank you.

22 You may continue.

23

24 MR. GONZALES: All right. Mr.

25 Collins, will you take the stand, please.



C O U R T I S   C O L L I N S

called as a witness by the People,  
being duly sworn by the Court Clerk,  
was examined and testified upon his  
oath, as follows:

DIRECT EXAMINATION

BY MR. GONZALES:

Q. Mr. Collins, you testified in this matter yesterday.

You testified in this case the day  
before yesterday; is that right?

A. Yes, I did.

Q. Mr. Collins, do you wish to testify again today?

A. Yes, I do.

Q. Is it at your request that you come in here and testify  
and tell this Judge the truth?

A. Yes, I do.

Q. Okay.

Is what you told the truth when you  
testified Monday morning; was that the truth?

A. No.

Q. What was the truth, what happened on January 17th,  
1992, what you told Judge Lipscomb at 36th District

1 Court, when you testified at the preliminary  
2 examination?

3 A. Yes, it was.

4 Q. All right.

5 Mr. Collins, since this time you  
6 have been arrested; is that correct?

7 A. Yes, I have.

8 Q. Mr. Collins, is the only reason you are coming in and  
9 telling this Judge that you lied Monday morning merely  
10 because now you are facing potential charges?

11 A. No.

12 Q. Why is it then that you chose to lie about what you  
13 testified to -- strike that.

14 You testified Monday morning that  
15 you weren't there January 17th, 1992; you were at home;  
16 is that correct?

17 A. Yes.

18 Q. Now, was that -- and that was true or not true?

19 A. That was not true.

20 Q. Were you there January 17th, 1992 at approximately 9:30  
21 in the p.m. in the area of the Special K Store on Mack  
22 and Gray?

23 A. Yes, I was.

24 Q. Why is it, sir, that you chose to tell the first story  
25 that you were at home and not there Monday morning to

1           this Judge?

2           A.   Because of my family was -- I was threatened?

3                           I was hearing rumors, people were  
4           saying what they were were going to do to me; do to my  
5           family.

6           Q.   What was your understanding of what was going to happen  
7           to you or your family?

8           A.   They was going to -- somebody was going to kill us or  
9           something, if something -- they were going to catch me  
10          going to work; or people knew where my mother stayed  
11          and probably would throw a bomb in there while we was  
12          sleep or something.

13          Q.   Were you in prison recently?

14          A.   Yes, I was.

15          Q.   Were you recently released from custody?

16          A.   Yes, I was.

17          Q.   When were you released from custody?

18          A.   July the 20th, Monday morning.

19          Q.   And you have been out on the street?

20          A.   Working.

21          Q.   Working since July 20th?

22          A.   July the 20th, yes, I have.

23          Q.   Okay.

24                           Has your understanding of what  
25          would happen to you developed before or after you got

1 out on July 20th?

2 A. Right after I got out, I started hearing rumors.

3 Q. When you say: Start hearing rumors, did somebody tell  
4 you these rumors?

5 A. Yes.

6 A lot of people were coming around  
7 saying some people said when they catch you; they were  
8 going to kill you and your family.

9 MR. GILES: Objection, Your Honor.

10 MR. GONZALES: I am offering it --  
11 I am not offering it for the truth but for his state of  
12 mind.

13 THE COURT: I will take his answer.

14 I will let it stand.

15 BY MR. GONZALES:

16 Q. And when they catch you, they were going to kill you;  
17 is what some folks told you?

18 A. Yes.

19 Q. What else did other people tell you?

20 A. The same thing.

21 Q. Did you believe them?

22 A. Yes, I did.

23 Q. And because you believed them, what did you do Monday  
24 morning?

25 A. Sit up here and told the Judge a story.

1 Q. All right.

2 Now, you have a relation by the  
3 name of Raymond Williams; do you not?

4 A. Yes, I do.

5 Q. What was your understanding of what you were supposed  
6 to say regarding Raymond Williams?

7 A. What was I supposed to say?

8 Q. Yes.

9 A. I wasn't supposed to say nothing that he said.

10 Q. What, if anything, did you understand Raymond Williams  
11 to say?

12 A. To say that I was on Corbet at the time.

13 Q. Was that true or was this a lie?

14 A. That's a lie.

15 Q. And how did you know that?

16 A. How did I know?

17 Q. That you were supposed -- that Corbet Street was where  
18 you were supposed to be. How did you know that?

19 A. Because I was on parole out there. He was calling  
20 my -- he was calling me and talking to me.

21 Q. Raymond Williams was?

22 A. Yes.

23 Q. And was he calling you and talking to you about this  
24 case?

25 A. Yes.

1 Q. Whose --

2 MR. GILES: again I am going to  
3 object. Seem like we're doing a great deal of hearsay  
4 here.

5 THE COURT: Let's not ask for any  
6 hearsay. I agree.

7 MR. GONZALES: Thank you, Judge.

8 BY MR. GONZALES:

9 Q. So you talked to Raymond Williams about this case?

10 A. Yes.

11 Q. If you know, of your own mind, did Raymond Williams  
12 know Goff?

13 A. Yes, he do.

14 Q. How many times did Raymond Williams call you,  
15 approximately?

16 A. I talked to him every other day.

17 Q. A total of how many times, about?

18 A. A week.

19 Q. Altogether how many times did you talk to Raymond  
20 Williams about this case?

21 A. About three times.

22 Q. Is Corbet street off Dickerson?

23 A. Yes, it it is.

24 Q. Do you know a person by the name of Big Ron?

25 A. Big Ron?

1 Q. What is Ron's real name?

2 A. Ron Fulton.

3 Q. Okay.

4 If you know, sir, were you supposed  
5 to say something about Roney Fulton, or big Ron?

6 A. No, I wasn't.

7 Q. If you know, sir, what were you supposed to say about  
8 Corbet Street?

9 MR. GILES: Your Honor, I am going  
10 to object as it appears to be drawing upon hearsay.

11 THE COURT: I agree. Let's not ask  
12 for any hearsay.

13 MR. GONZALES: You know, Judge, I  
14 am not asking for the truth. I am not offering it in  
15 any way to prove the substance obviously of what they  
16 were telling him to say.

17 I am asking for purposes of this  
18 Court's understanding about why he told you what he did  
19 Monday morning; what he did.

20 THE COURT: Well, I'm just  
21 wondering how it's relevant at this point in time.

22 He did tell this Court that he lied  
23 to the Court on Monday but everything that he told  
24 Judge Lipscomb was true at the exam.

25 MR. GONZALES: I will move on.

1 THE COURT: Thank you.

2 BY MR. GONZALES:

3 Q. Now, let's talk about January 17th, 1992, Mr. Collins.

4 On January, 17th, '92, did you go

5 into the Special K Party Store on Mack and Gray?

6 A. Yes, I did.

7 Q. On that date in time, did you have occasion to see  
8 Goff?

9 A. Yes, I did.

10 Q. Is that is the same person you've identified in court  
11 prior to today?

12 A. Yes, it is.

13 Q. Did you see him also with a person you later came to  
14 know as Rodnell Penn?

15 A. Yes, I did.

16 Q. Did you have occasion to leave the party store?

17 A. Yes, I did.

18 Q. And at that date in time, sir, did you hear anything  
19 unusual?

20 A. Yes, I did.

21 Q. What did you hear?

22 A. Gunshots.

23 Q. When you heard gunshots, how many did you hear?

24 A. About three or four.

25 Q. And when you heard three or four gunshots, what did you



1 do?

2 A. Turned around and looked back across Mack and then I  
3 ran. I ran. I ran across Mack. And I saw this guy  
4 laying in the driveway.

5 Q. That person that was laying in the driveway, is that  
6 the same person you had seen with Gofft earlier in the  
7 store?

8 A. Yes, it is.

9 Q. Approximately how many minutes earlier?

10 A. Between five and ten minutes.

11 Q. Between five and ten minutes?

12 A. Yes.

13 Q. When you turned around and you looked; did you have  
14 occasion to see Gofft?

15 A. Yes, I did.

16 Q. Where did you see him?

17 A. Running through the field.

18 Q. Did you see him with any weapon?

19 A. No, I didn't.

20 Q. Did you see anyone else in the area other than the  
21 person on the driveway; and the person you identified  
22 as Gofft running through -- running away?

23 A. No, I didn't.

24 Q. Are you saying this merely because you have been  
25 arrested since this incident?

1 A. No, I am not.

2 Q. Okay.

3 MR. GONZALES: No further  
4 questions, Judge.

5 THE COURT: Cross-examination.

6 CROSS-EXAMINATION

7  
8 BY MR. GILES:

9 Q. All right, Mr. Collins.

10 It is your testimony now that when  
11 you were hear on Monday that you lied; is that correct;  
12 is that right?

13 A. Yes.

14 Q. You are saying now when you were in 36th District  
15 Court, when you testified, you were telling the truth;  
16 is that right?

17 A. Yes.

18 Q. When you talked to -- let me ask you this:

19 When you talked to the police  
20 officer and gave the police a statement, was that a lie  
21 or was that the truth?

22 A. The truth.

23 Q. Yes.

24 When you talked to the police  
25 officer, You gave your statement to the police, I

1 believe it was on January 23rd, did you lie or did you  
2 tell the truth?

3 A. The truth.

4 Q. You told the truth?

5

6 When you left out of the courtroom  
7 on Monday, you were arrested?

8 A. Yes, I was.

9 Q. What was your understanding of the reason why you were  
10 arrested?

11 A. For sitting there telling the -- telling the Judge a  
12 lie because I was scared.

13 Q. And who talked to you about that?

14 A. About what?

15 Q. About anything after you were arrested?

16 A. Who talked to me?

17 Q. Did the officer come up and tell -- talk to you and  
18 say: I am arresting you because you told a lie?

19 A. No, he didn't.

20 Q. What did he tell you?

21 A. He just told me I was being arrested for -- I don't  
22 recall what you call it.

23 Q. Perjury?

24 A. Perjury.

25 Q. Is that all he told you?

1 A. Yes.

2 Q. He read your rights?

3 A. Yes, he did.

4 Q. Did he ask you any questions?

5 A. Yes, he did.

6 Q. What kind of questions did he ask you?

7 A. He asked me why I lied.

8 Q. What did you tell him?

9 A. I told him the reason. The same reason I told the  
10 prosecutor.

11 Q. In Court today?

12 A. Yes.

13 Q. And when did he ask you the question?

14 A. About three and a half hours later after I was on the  
15 9th floor.

16 Q. Okay. Let's back up.

17 When you were arrested and told you  
18 were being charged with perjury here in this courtroom,  
19 outside this courtroom, okay?

20 A. Yes.

21 Q. One second, Your Honor.

22 We have a potential witness in the  
23 Courtroom.

24 THE COURT: Have the witness wait  
25 in the hallway.

1

MR. GILES: Thank you, Your Honor.

2

3

MR. GONZALES: Let me indicate that

4

that woman has been in the courtroom since the

5

beginning of this case I am not sure of her name but I

6

have seen her throughout.

7

In fact I spoke to her at the

8

beginning of case Monday morning and asked her if she

9

wasn't a witness; and she said she wasn't. And I'm

10

indicating that --

11

MR. GILES: Your Honor, I don't

12

believe she's in the courtroom.

13

She has been outside the courtroom.

14

I have talked to her on several occasions.

15

THE COURT: You can ask her some

16

questions as soon as she takes the stand by way of voir

17

dire, if you like.

18

MR. GILES: Thank you.

19

BY MR. GILES:

20

Q. When you were arrested outside the courtroom, the

21

officer read you your rights, then; is that correct,

22

Mr. Collins?

23

A. Yes, he did.

24

Q. Okay. Did he ask you any questions then?

25

A. No, he didn't.

1 Q. He didn't say anything to you?

2 A. No.

3 Q. He just took you and locked you up?

4 A. Yes, he did.

5 Q. Is it your -- did he later come back and see you?

6 A. Yes, he did.

7 Q. Okay. On your request or he just came on his own?

8 A. On my request.

9 Q. That's when you told him you lied?

10 A. Yes, I did.

11 Q. Okay.

12 Did he at any time tell you  
13 anything to the effect that if you came back and told  
14 the truth that you would not be charged with perjury?

15 A. No, he didn't.

16 Q. Did he make any promises to you?

17 A. No, he didn't.

18 Q. Okay.

19 Did he tell you about testifying  
20 today that they would not charge you?

21 A. No, he didn't.

22 Q. Did he tell you about testifying today they could not  
23 charge you?

24 A. No, he didn't.

25 Q. So is it you are frame of mind now that you believe

1           when you walk out of this courtroom today, you are  
2           still going to be charged with perjury?

3       A.   I ain't?

4       Q.   Is that yes or no.

5                               Do you believe when you leave here  
6           that you are still charged with perjury?

7       A.   Yes.

8       Q.   Is it your testimony that you were on -- that you were  
9           in the area of Gray and Mack on January 17th; is that  
10          correct?

11      A.   Yes.

12      Q.   And you were in the party store?

13      A.   Yes.

14      Q.   What is the name of that party store?

15      A.   Gray and Mack Party Store.

16      Q.   It is the Gray and Mack Party Store?

17      A.   Yes.

18      Q.   Do you live in that area?

19      A.   Yes, I do.

20      Q.   Was the name of that party store the Special K?

21      A.   Yes, Special K.

22      Q.   Now, it is Special K?

23      A.   Special K.

24      Q.   Not the Gray and Mack Party Store?

25      A.   (Interposing) Not --

1 Q. I want to understand your testimony.

2 It is Special K?

3 A. Special K.

4 Q. You are inside the store?

5 A. Yes.

6 Q. How long were you inside the store?

7 A. About five or ten minutes.

8 Q. Okay.

9 So it is your testimony today that  
10 while inside the store, you saw Mr. Carl Hubbard?

11 A. Yes.

12 Q. You saw him with anybody else?

13 A. Yes.

14 Q. Who did you see him with?

15 A. The deceased person.

16 Q. The deceased person.

17 Do you know the deceased person's  
18 name?

19 A. Not right offhand.

20 Q. Had you ever seen that person before you saw them in  
21 the party store?

22 A. No, I haven't.

23 Q. Did you talk to that person while you were in the party  
24 store?

25 A. No, I haven't.



1 Q. Did you talk to, with Mr. Hubbard?

2 A. Just spoke.

3 Q. You said Hi.

4 How long were you in the party  
5 store after you said Mr. Hubbard was allegedly there;  
6 can you tell us?

7 A. A couple of minutes after.

8 Q. What was Mr. Hubbard wearing?

9 A. I can't recall.

10 Q. You don't know what he was wearing?

11 A. I don't recall.

12 Q. Are you saying that now, this testimony that you are  
13 giving is true and that you lied before because you  
14 were threatened?

15 A. Yes.

16 Q. Who threatened you?

17 A. It wasn't nobody right offhand; people just coming  
18 telling me.

19 Q. People. What people?

20 A. People out on the street that was hearing the stuff.

21 Q. What are those people's names?

22 A. I can't tell you what their names are.

23 Q. You don't know their names?

24 A. No.

25 Q. And you are saying, no, you do not know their names?

1 A. No, I don't.

2 Q. Okay.

3 So what you are telling me and you  
4 are telling this Court is that you know these people,  
5 though?

6 A. I've seen them around at clubs, yes.

7 Q. So what you are telling me is that people that you do  
8 not know except by seeing them around in clubs walked  
9 up to you and tell you that you are going to be killed?  
10 Is that what you are saying?

11 A. They know Carl.

12 Q. Is that what you are saying, yes, no, or I don't  
13 understand your question?

14 A. Yes.

15 Q. And you started receiving these threats after you were  
16 released from custody; is that correct?

17 A. While I was in custody and when I was released.

18 Q. While you were in custody someone threatened you?

19 A. They were writing me telling me.

20 Q. Writing you?

21 A. They were writing me.

22 My sister was writing me and  
23 telling me what people saying they are going to do to  
24 me.

25 Q. All right.

1 And you don't know who these people  
2 are; is that correct?

3 A. Some people that he know.

4 Q. Who are these people?

5 A. I don't know their names. I just seen them around.

6 Q. When your sister wrote to you and said somebody is  
7 going to do something, she said in the letter these  
8 were some people that Mr. Hubbard knows?

9 A. Yes.

10 Q. And how did she -- she found out from these same  
11 folks --

12 MR. GONZALES: (Interposing) Well,  
13 Your Honor, speculation.

14 THE COURT: Let's not ask for any  
15 speculation.

16 MR. GILES: I'll withdraw the  
17 question, Your Honor.

18 THE COURT: Thank you.

19 BY MR. GILES:

20 Q. You testified that you spoke at least three times to  
21 Mr. Williams; is that correct?

22 A. Yes.

23 Q. You were out when you spoke to him?

24 A. Yes, I was.

25 Q. So this was after July 20th, 1992?

1 A. Yes, it was.

2 Q. Can you recall approximately when you talked to him?

3 A. I can't recall.

4 Q. Would it have been in July? Would it have been in  
5 August or both?

6 A. In August.

7 Q. You talked to him in August. He called you collect?

8 A. No.

9 He called his girlfriend and she  
10 called me.

11 Q. You didn't talk to him?

12 A. I talked to him and his girlfriend.

13 Q. Okay.

14 While you had this conversation  
15 with him his girlfriend was on the line?

16 A. Yes, she was.

17 Q. Did Mr. Williams threaten you?

18 A. No.

19 Q. Did he tell you anything about hearing that you were  
20 going to be killed?

21 A. I just was hearing it from people.

22 Q. From these people that you don't know?

23 A. Yes.

24 Q. Okay. Let's go back to the party store.

25 You left out of the party store?

1 A. Yes.

2 Q. When you left out of the party store, was Mr. Hubbard  
3 still in the party store?

4 A. Yes.

5 Q. What happened? Where did you go?

6 A. I was walking down the street.

7 Q. How far down the street did you get -- what street were  
8 you walking down?

9 A. Gray.

10 Q. How far down the street did you get?

11 A. About by the alley.

12 Q. Which is about how far?

13 A. I really don't know.

14 Q. Is it behind the store, the length of the store?

15 A. About behind the store.

16 Q. At least fifty, seventy-five feet.

17 You are talking about the length of  
18 the store; is that correct?

19 A. Yes.

20 Q. Do you recall what you testified to during the  
21 preliminary exam?

22 Do you recall your testimony at  
23 the preliminary exam?

24 A. Yes, I do.

25 Q. Do you recall at the exam testifying that you got

1 approximately three feet away from the door?

2 MR. GONZALES: What page?

3 MR. GILES: Looking at page twenty,  
4 two-thirds down.

5  
6 MR. GONZALES: Okay. Thank you.

7 BY MR. GILES:

8 Q. Do you recall that testimony?

9 MR. GONZALES: I don't see that on  
10 page twenty, Judge.

11 MR. GILES: One second.

12 MR. GONZALES: 22, I believe in the  
13 middle.

14 MR. GILES: Okay. You are right.

15 MR. GILES: Page 21.

16 BY MR. GILES:

17 Q. Do you recall that testimony?

18 A. Yes.

19 Q. Okay.

20 Today you are telling us that you  
21 were fifty or seventy-five five feet down Gray;  
22 correct?

23 A. No.

24 Q. That's what you just told me?

25 A. That's what you stayed.

1 Q. I asked you and you said: Yes?

2 A. Over by the alley. I don't know how many feet it is.

3 Q. Approximately.

4 You said it is towards the end of  
5 the store; correct?

6 A. It is about the side of the store.

7 Q. The alley is at the side of the store?

8 A. Yes.

9 Q. So the alley runs into the store?

10 A. Yes.

11 Q. Runs into the store?

12 A. It runs behind the store.

13 Q. It runs behind the store?

14 A. Yes, it do.

15 Q. You testified you were at the alley at Gray.

16 Is that, testimony?

17 A. Yes.

18 Q. So your behind the store?

19 A. I wasn't behind on -- I was --

20 Q. (Interposing) At the side but passed the store; is that  
21 correct?

22 A. This is --

23 Q. (Interposing) The alley runs behind the store.

24 MR. GONZALES: Judge, he's got to  
25 give him a chance to answer.

1 THE COURT: I agree. Give him an  
2 opportunity to finish his answer.

3 THE WITNESS: This is the store and  
4 this is the street.

5 BY MR. GILES:

6 Q. We can't see your hands.

7 I am showing you a diagram. I  
8 believe it is marked People's Exhibit Number 21.

9 Is that correct, People's Exhibit  
10 Number 21.

11 BY MR. GILES:

12 Q. The basic diagram of the area of Mack and Gray.

13 This shows a block area here, identified  
14 as Special K Party Store; is that correct?

15 A. Yes.

16 Q. Can you identify where you were standing when you heard  
17 the gunshot?

18 A. This is the --

19 Q. This is the store right here, yes.

20 MR. GONZALES: May I approach to  
21 look, Judge?

22 THE COURT: Go right ahead.

23 BY. MR. GILES:

24 Q. This is Mack here. This is Gray. This is the Special  
25 K Party Store.



1                   The entrance to the Special K Party  
2           Store is in the front of the building; is that correct,  
3           sir?

4           A.   Yes.

5           Q.   It is your testimony that you came out of the building  
6           and you were walking down Mack -- which?

7           A.   Which building?

8           Q.   Came out of the party store?

9           A.   Yes.

10          Q.   You were walking which way down Gray?

11          A.   Right here.

12          Q.   Which way?

13          A.   This way.

14          Q.   This is Mack and this is Gray?

15          A.   This is Mack right here.

16          Q.   No.

17                   This right here is Mack.  It says  
18           Mack.  Okay.  This wide street here is Mack.

19                   This street is Gray.  This is the  
20           party store.

21                   When you came out of the party  
22           store, which way did you walk?

23                   Did you go to your left or did you  
24           go to your right?

25          A.   To my left.

1 Q. You came out and went to your left, so you walked down  
2 Mack. You didn't walk down Gray?

3 A. I walked down Gray.

4 Q. So you went to your right. Okay.

5 I am also going to show you a  
6 photograph which is People's Exhibit Number 11.

7 Is that the Special K Party Store?

8 A. Yes.

9 Q. All right.

10 A. I went this way.

11 Q. So you were -- on the diagram it would be coming down  
12 this -- is that correct, Mr. Gonzales?

13 MR. GONZALES: Yes, that's right.

14 BY MR. GILES:

15 Q. The alley is --

16 A. I was right about here.

17 Q. At the alley; is that correct?

18 A. Yes.

19 Q. That's behind the store?

20 A. That's on the side of the store.

21 Q. You are pointing?

22 A. I am pointing at the phone booth.

23 A. It is by the alley -- before the alley, right.

24 Q. Okay.

25 Now, you are saying you were by the

1 phone booth?

2 A. I was on the sidewalk but I was right, facing the phone  
3 booth but I wasn't by the alley, you know.

4 Q. I am just trying to clarify your testimony.

5 Now you are saying you were by the  
6 telephone; is that what you are saying?

7 A. By the alley and the telephone. It is right by the  
8 same places. I was right here.

9 I was right about on the sidewalk  
10 right here by this garage can; by the telephone booth.

11 I didn't go no farther than that.

12 Q. Would you say that the distance from the door to where  
13 you were standing is three feet?

14 A. No. I wouldn't say that since I see the picture.

15 Q. I mean you were there. Okay?

16 A. I was --

17 Q. How far do you think I am from you now?

18 A. About five feet.

19 Q. I see, five feet.

20 Can you estimate how far in miles  
21 you were?

22 A. I can't estimate. I can't do that.

23 Q. Would you say, it's a fair statement to say, that you  
24 were at least forty to fifty feet?

25 A. About thirty, twenty, twenty-five, something like that.

1 Q. Okay.

2 You got approximately twenty-five,  
3 thirty feet. You heard some gunshots; is that correct,  
4 Mr. Collins?

5 A. Yes.

6 Q. You turned around ; is that correct?

7 A. Yes.

8 Q. You looked down Gray?

9 A. Yes.

10 Q. Okay.

11 What did you see when you looked  
12 down Gray?

13 A. I seen -- I looked down Gray and I seen Carl Hubbard  
14 running through the field.

15 Q. Running through what field?

16 A. Springer.

17 Q. So when you saw him, which side -- if I show you this  
18 diagram, again.

19 I am going to show you the diagram  
20 again identified as People's Exhibit Number 21.

21 According -- this is the building here, Special K Party  
22 Store on the diagram, the side, the telephone is  
23 towards the back of the building and that's in the  
24 approximate area that you were; is that correct?

25 A. Yes.

1 Q. It is your testimony that you turned and looked down  
2 Gray. And you saw Mr. Hubbard running through a field.  
3 These are the houses on Gray.

4 This shows one vacant lot on this  
5 side of the street.

6 Is this the field that you are  
7 speaking anout?

8 A. Yes.

9 Q. Where the vacant lot is.

10 You saw Mr. Hubbard in the vacant  
11 lot when you saw him?

12 A. Running through the vacant lot.

13 Q. You saw him running through.

14 So the first time you saw Mr.  
15 Hubbard is he was running through this vacant lot?

16 A. Yes.

17 Q. When you turned around and saw Mr. Hubbard running  
18 through this vacant lot, did you also see the body?

19 A. On on the ground.

20 Q. So from standing back near this party store on Gray and  
21 back, you could see the body laying on the ground?

22 A. No, not -- I didn't see it until I got close.

23 Q. Okay.

24 So it is your testimony you heard  
25 the gunshots, you turned around and saw Mr. Hubbard

1 running through this vacant lot, or field, or whatever  
2 you want to call it, and that you ran back to this  
3 area; is that correct?

4 A. Yes.

5 Q. Okay.

6 Mr. Hubbard was running towards you  
7 or away from you?

8 A. Away from me.

9 Q. So he had his back to you; is that correct?

10 A. Yes.

11 Q. You could not see his face, could you?

12 A. No.

13 Q. Can you tell me what he had on?

14 A. I can't fairly recall.

15 Q. Can you tell me how, sir, it is that you know it was  
16 Mr. Hubbard?

17 A. The scar.

18 Q. A scar?

19 A. On the back of his head; the side of his head.

20 Q. The scar on the back?

21 A. The side of his head.

22 Q. Back, side, side of his head?

23 How tall are you, Mr. Collins?

24 A. About five, eleven.

25 Q. Mr. Collins, do you recall giving your statement to the

1 police?

2 Do you recall giving a statement to  
3 the police?

4 A. Yes, I do recall.

5 Q. I believe when I asked you earlier, you said that that  
6 statement was also true, correct? The statement that  
7 you gave to the police was the truth?

8 A. Yes.

9 Q. Okay.

10 For your recollection, Mr. Collins,  
11 I am going to ask you to reread this segment of your  
12 statement to yourself, please.

12 I am going to have some questions.  
13  
14 THE COURT: Take your time while  
15 you read it.

16 MR. GILES: Okay.

17 (A discussion was held off the  
18 record.)

19 \* \* \* \*

20

21

22 MR. GILES:

23 Q. Mr. Collins, did you read that?

24 A. Yes, I did.

25 Q. Does that help you remember what you told the police

1 officer?

2 A. Yes, I do.

3 Q. Okay.

4 Isn't it true, that when you gave  
5 this statement that you said you told the officer that  
6 you got, as you were walking down Gray, you got mid  
7 block, half way down the block, down Gray; you need to  
8 see your statement?

9 A. Midblock from where?

10 Q. Quote, unquote, I looked back and I noticed Goff and  
11 the guy he was with come out of the store and were  
12 walking across Mack and Gray.

13 I continued to walk south on Gray.  
14 When I reached about midblock, I heard gunshots.

15 Is that your statement?

16 A. Yes.

17 Q. Is that true?

18 A. Yes.

19 Q. Is it true, did you got midblock or is it true you got  
20 to the side of the party store?

21 A. To the side of the party store.

22 Q. So midblock is not the truth?

23 A. No.

24 Q. It's a lie; isn't it?

25 A. Yes.



1 Q. So you lied to the police department?

2 A. No.

3 I told them that I was on the side  
4 of the store. I don't know where they said.

5 Q. Is this your signature at the bottom of this statement,  
6 sir?

7 A. Yes, it is.

8 Q. That's your signature?

9 A. Yes, it is.

10 Q. You read and signed this statement; is that correct?

11 A. Yes, it is.

12 Q. You read and signed it as being the truth; isn't that  
13 correct?

14 A. Yes, it is.

15 Q. But you getting midblock is not telling the truth?

16 A. They probably put that down.

17 Q. Answer the question, please.

18 You're saying that they got to  
19 midblock; that is not the truth, is it?

20 A. Not midblock.

21 Q. It's a lie, correct?

22 A. Yes, I was on the side of the store.

23 Q. Correct.

24 Please answer the question.

25 It's a lie, correct?

1 A. Correct.

2 Q. Isn't it is your testimony that you ran in the  
3 direction of the gunshots?

4 A. Yes.

5 Q. Is that correct?

6 A. Yes.

7 Q. Didn't you testify on Monday that a close friend of  
8 yours was killed?

9 A. Yes.

10 Q. Was he shot?

11 A. Shot and killed, yes.

12 Q. Shot and killed. That was your testimony.

13 Do you know a gentleman by the name  
14 of Andrew, I believe it is Smith.

15 You know a gentleman by the name of  
16 Andrew Smith?

17 A. Yes, I do.

18 Q. Do you see him anywhere in the area of the store?

19 A. No, I didn't.

20 Q. Did you talk to him that day?

21 A. No, I didn't.

22 Q. No, you didn't?

23 Andrew Smith was not in the area  
24 when this occurred; is that correct; was that your  
25 testimony?

1 A. No, he wasn't.

2 Q. Okay.

3 I am going to ask you to read a  
4 portion of your statement that you gave to the police  
5 department, the second page?

6 A. I don't recall saying that part.

7 Q. Please, don't make any statements until I ask the  
8 questions.

9 Is this your signature at the  
10 bottom of the page?

11 A. Yes, it is.

12 Q. Do you recall -- you do remember making a statement to  
13 the police?

14 A. Yes, I do.

15 Q. That is your signature at the bottom of that page?

16 A. Yes, it is.

17 Q. You were asked the question:

18 Was there anyone else in the area  
19 when this happened?

20 Your answer was: Yes. A friend of  
21 mine Andrew Smith black male  
22 nineteen. He lives on the west  
23 side off 12th street.

24 He was inside the street while  
25 I was in the store.

1 He stayed on the corner when I  
2 left.

3 Q. You made that statement to the police?

4 A. I don't recall that statement.

5 Q. But you recall all the other statements that you made  
6 to the police but you don't remember making that  
7 statement?

8 A. No, I don't.

9 Q. Did you -- I believe I asked you about, did you talk to  
10 Mr. Smith over the telephone that evening?

11 A. No, I didn't.

12 Q. Okay.

13 It is your testimony that you gave  
14 at the preliminary exam is the truth?

15 A. Yes.

16 Q. And again I am going to ask you regarding -- you read  
17 your testimony at the exam starting at page seventeen  
18 at over half way down the road -- do you know the page?

19 Do you recall testifying at that  
20 time, the preliminary exam, that you did in fact say  
21 that you called Andrew Smith?

22 A. No, I don't.

23 Q. Did you don't recall that?

24 A. No, I don't.

25 Q. You are saying that this transcript is incorrect?

1 MR. GONZALES: Your Honor, I object to  
2 that.

3 MR. GILES: Let me read the transcript  
4 into the record then.

5 THE COURT: Thank you.

6 MR. GILES: Starting -- there are no  
7 numbers on here.

8 "Question: Do you know anybody by  
9 the name of Andrew?

10 Answer: Yes, I do.

11 Question: Did you talk with him at  
12 the scene?

13 Answer: Talked to him over the  
14 phone?

15 Q. Now, you are saying that that is not true; correct?

16 A. That's not true. I didn't talk.

17 Q. That's a lie?

18 A. I told them I know a guy.

19 Q. And the question is -- is this a lie?

20 A. About talking to him over the phone?

21 Q. Talking to him over the phone?

22 A. Yes.

23 Q. That's a lie?

24 A. Yes.

25 Q. So you lied at the exam?

13 1 A. I didn't tell them that I talked to them over the  
2 phone.

3 I told them that I knew an Andrew  
4 Smith.

5 Q. The question was: Did you talk to him at the scene?

6 Answer: I talked to him over the  
7 phone.

8 A. I don't fairly recall that.

9 Q. Do you recall -- do you have any medical problems, Mr.  
10 Colliins?

11 A. No, I don't.

12 Q. Have you ever been treated for any psychological  
13 problems?

14 A. No, I haven't.

15 Q. Currently use drugs?

16 A. No.

17 Q. Have you ever used drugs.

18 MR. GONZALES: Relevancy, Judge,  
19 objection.

20 MR. GILES: Your Honor, this  
21 witness testimony memory is very selective.

22 THE COURT: I think you should be  
23 specific as to any dates, now only the date in  
24 question.

25 MR. GILES: All right.

1 I'll withdraw the question, Your  
2 Honor.

3 THE COURT: Thank you.

4 BY MR. GILES:

5 Q. You know Raymond Williams; correct?

6 A. Yes, I do.

7 Q. Were you with Raymond Williams on the 17th?

8 A. No, I wasn't.

9 Q. You were not?

10 You didn't see him on the 17th at  
11 all?

12 A. No, I didn't.

13 Q. You know a gentleman by the name of Roney Felton?

14 A. Yes, I do.

15 Q. Were you with him on the 17th?

16 A. No, I wasn't.

17 Q. Did you see him at all on the 17th?

18 A. Earlier that day.

19 Q. Earlier that day.

20 Were you staying in his home during  
21 this period, around that time?

22 A. I was staying with my mother.

23 Q. Okay.

24 MR. GILES: Off the record.

25 (A discussion was held off the

1 record.)

2 BY MR. GILES::

3 Q. Mr. Collins, you said after hearing the shots and  
4 seeing Mr. Hubbard running through a vacant lot, you  
5 ran down the street and you saw the body laying there;  
6 correct?

7 A. Yes.

8 Q. Did you touch the body?

9 A. No, I didn't.

10 Q. Can you tell me what you saw?

11 A. I seen him laying on his stomach.

12 Q. Laying on his stomach?

13 A. His sideways like.

14 Q. Can you tell me what he was wearing?

15 A. I don't fairly recall.

16 Q. It is the same person that you felt you saw in the  
17 store; correct?

18 A. Yep, yes.

19 Q. Can you tell me what he was wearing when he was in the  
20 store?

21 A. I don't fairly recall. It's been a long time.

22 Q. Can you tell me what he looked like?

23 A. That was my first time ever seeing him in my life.

24 Q. In the store?

25 A. Yes.



1 Q. So how do you know this is the same person that you  
2 saw, are you saying you saw on the street?

3 A. (No response)

4 Q. Did this person have any -- well, answer the question.  
5 How do you know it was the same person?

6 A. Because when I ran, I looked and I just looked at him  
7 and I just knew it was him; and then I just ran.

8 Q. You looked at him? Did you see his face?

9 A. No, I didn't. I seen the way, you know.

10 I knew him because it wasn't but  
11 five or ten minutes before I seen him in the store.

12 Q. You didn't see the face while you he was lying on the  
13 ground?

14 A. No, I didn't.

15 Q. You can't tell me what he was wearing?

16 A. No, I can't.

17 Q. Okay. Did you have any identifiable scars that you  
18 could see?

19 A. No.

20 Q. On his face or head?

21 A. Head?

22 Q. Yes.

23 A. No.

24 Q. Just one more question, Mr. Collins.

25 There is -- is there -- you are

1 familiar with the inside of the Special K Party Store?

2 A. Yes, I am.

3 Q. Is there a telephone on the inside of that store?

4 A. Behind the counter.

5 Q. Behind the counter. There is not a public phone inside  
6 the store?

7 A. No, it is not.

8 Q. Okay.

9 The photograph that I showed you, I  
10 believe it is People's Exhibit Number 11, you  
11 identified it on the side of this store, a telephone.

12 Is that the only telephone at that  
13 party store to the best of your recollection?

14 A. Around the store, you are saying?

15 Q. Yes.

16 A. Yes. That's the only one.

17 Q. When you came out of the store walking down the street,  
18 at any time did you see Mr. Hubbard or the person he  
19 was with make a telephone call?

20 A. No, I didn't.

21 Q. Thank you.

22 MR. GILES: No further questions.

23 THE COURT: Anything else.

24 MR. GONZALES: Yes, Your Honor.

25 THE COURT: All right. Let's move

1 on.

2  
3 REDIRECT EXAMINATION  
4

5 BY MR. GONZALES:

6 Q. Mr. Collins, you didn't see Goff and the person you  
7 later saw laying on the street before you were in  
8 Special K Store, had you?

9 A. What?

10 Q. You hadn't seen them at all before you were in the  
11 store?

12 A. No, I haven't.

13 Q. Did you see them at all that day?

14 A. No.

15 Q. The statement you were shown that said midblock, you  
16 were at an area; you pointed to near a garbage can,  
17 this photograph in Exhibit Number 11?

18 A. Yes.

19 Q. And that also is in the area of the alley at the rear;  
20 is that right?

21 A. Yes.

22 Q. Now, when you heard the shots, you indicated you turned  
23 and ran?

24 A. Yes.

25 Q. You ran up towards the direction of, up Gray Street?

1 A. Yes.

2 Q. So you weren't standing at that point in time, or were  
3 you, were you standing at that location, at that point  
4 in time when you saw Carl Hubbard?

5 A. Across Mack.

6 Q. You had crossed Mack?

7 A. No.

8 I seem him going across Mack.

9 Q. Where were you at?

10 A. By that telephone going down the street.

11 Q. You were going down the street; is that correct?

12 A. Yes.

13 Q. You weren't standing there stationery at the moment?

14 A. No.

15 Q. You were moving?

16 A. Yes, slow.

17 Q. Okay.

18 When you say moving slow, you were  
19 walking?

20 A. Yes.

21 Q. Did there come a time when you started running towards  
22 the scene?

23 A. Yes.

24 Q. And when you are running towards the scene, did you --  
25 is that when you said you saw Mr. Hubbard?

1 A. The back of his head, yes.

2 Q. Okay.

3 Now, you said you got a phone call  
4 from Raymond Williams; at least, you talked to him at  
5 least three times through his girlfriend; is that  
6 correct?

7 A. Yes.

8 Q. Okay.

9 Now, was there a three-way  
10 conversation on the phone?

11 A. Yes.

12 Q. What is her name?

13 A. Angie.

14 Q. Now, you were asked by counsel here -- did he tell you  
15 people were going to kill you. And I am referring to  
16 Raymond Williams?

17 A. No, no.

18 Q. Did he tell you that?

19 A. No.

20 Q. Did he threaten you in any way?

21 A. No.

22 Q. Did he tell you about Corbett Street?

23 A. Yes.

24 Q. What did he tell you about Corbett Street?

25 A. That I said --

1 MR. GILES: I will object. It is  
2 hearsay.

3 MR. GONZALES: The door was opened,  
4 Judge.

5 He asked about threats. He asked  
6 about threatening to kill him and I'm asking him what  
7 he did say.

8 MR. GILES: Those questions lead  
9 directly to the issue that the prosecutor had already  
10 laid regarding this witness' previous testimony and  
11 lying.

12 MR. GONZALES: Then he goes and  
13 asked him about what he did say.

14 He can't pick and choose only what  
15 parts --

16 THE COURT: I tell you what. You  
17 might have opened up the door but there is an objection  
18 of hearsay.

19 I think you are asking for hearsay.  
20 So I am going to sustain the objection.

21 MR. GONZALES: Okay.

22 BY MR. GONZALES:

23 Q. Now, you said that Mr. Fulton, you know, you had seen  
24 earlier that day; is that correct?

25 A. Yes.

1 Q. Did you talk to him at all this period of time?

2 A. No.

3 Q. Thank you.

4 MR. GONZALES: That's it, Judge.

5 Judge, I have nothing else.

6 THE COURT: Anything else?

7 MR. GILES: A couple of questions,

8 Your Honor.

9

10 RECROSS-EXAMINATION

11

12 BY MR. GILES:

13 Q. Mr. Collins, it is your testimony that you saw Mr.  
14 Hubbard and someone else walking across Gray and Mack,  
15 correct, leaving the store, the area of the store?

16 A. Yes.

17 Q. Okay.

18 At the time you saw them walking  
19 across -- excuse me. Walking across Mack onto Gray,  
20 you were then at the side of the store; correct?

21 A. Yes.

22 Q. Okay. And then you kept walking?

23 A. Yes.

24 Q. Yes?

25 A. Yes.

1 Q. So when you heard the gunshots, where were you?

2 A. About by the garbage can.

3 Q. I believe on redirect the -- with the prosecutor, you  
4 said you were by the telephone?

5 A. Did I --

6 Q. (Interposing) Let me finish the question.

7 I believe when the prosecutor asked  
8 you on redirect, you said you were by that telephone,  
9 the garbage can, that general vicinity when you turned  
10 and saw Mr. Hubbard and this guy walking across Mack.

11 Was that your testimony?

12 MR. GONZALES: I disagree with  
13 that, Judge. I don't believe that was indicated at  
14 all.

15 I think that's the point and time  
16 after he heard the shots. It's a mischaracterization  
17 of my questioning and prior testimony.

18 THE COURT: Your objection is  
19 noted. Let me hear the answer.

20 Go ahead and ask the question  
21 again.

22 BY GILES:

23 Q. I believe when the prosecutor asked you went you first  
24 saw Mr. Hubbard and the, this other guy leaving the  
25 store, when you saw them -- you testified that you did



1 see them walking across Mack; correct?

2 A. Yes.

3 Q. Going down Gray?

4 A. Yes.

5 Q. Okay.

6 When you saw them walking across  
7 Mack and going down Gray, where were you?

8 A. By the garbage can and the telephone booth.

9 Q. By the garbage can when you turned and saw them on Mack  
10 and Gray?

11 A. Yes.

12 Q. Did you hear the shots immediately then?

13 A. No.

14 Q. How much time passed; how much time passed?

15 A. About three or four minutes.

16 Q. And during this time you were walking, weren't you?

17 A. Yes.

18 Q. It was cold outside, wasn't it?

19 A. I don't recall.

20 Q. Okay.

21 But you continued to walk down  
22 Gray?

23 A. Yes.

24 Q. Yes?

25 A. Yes.

1 Q. In the opposite direction they were going?

2 A. Yes.

3 Q. So is it fair to say that you got passed the alley and  
4 the garbage can by the time you heard the gunshot?

5 A. No.

6 Q. It is your testimony it took you three to four minutes  
7 to walk from the area of the telephone booth to the  
8 area of the alley; is that correct?

9 A. Yes.

10 Q. Maybe one further question, Your Honor.

11 THE COURT: All right.

12 MR. GILES: A couple more  
13 questions, Your Honor.

14 BY MR. GILES:

15 Q. Do you recall at the preliminary exam you were asked  
16 the question:

17 THE COURT: Hold onto your notes,  
18 counsel. We're going to take five minutes.

19 MR. GILES: Thank you.

20 (A short break)

21

22

23

24

25

THE DEPUTY: Court's back in session.  
Please be seated.

1

THE COURT: All right.

2

Do you have any other questions,

3

counsel.

4

MR. GILES: Yes, Your Honor.

5

6

THE COURT: I should state before

7

you begin, the Court is going to take pictures at 2

8

o'clock.

9

So anybody who wants to be in the

10

pick can be here this afternoon because the Court is

11

going to take pictures of anyone in the courtroom. So

12

I thought I would put everyone on notice.

13

MR. GONZALES: Let me indicate also

14

that I had a chance to speak with Mr. Giles.

15

He indicated to me he had no

16

objection to a proposal that would close the courtroom

17

for both sides during the remainder of Mr. Collins'

18

testimony which I expect to be very brief.

19

In that regard I talked to the

20

family members involved on my side of the case and they

21

have already sequestered themselves. They have no

22

objections.

23

So it is my understanding that he

24

didn't have that concern so I would ask that that be

25

implemented if there are no objections. No objection

1 to it.

2 THE COURT: I tell you what. I  
3 appreciate your concerns. But this is a public  
4 courtroom and anybody should be able to come and go as  
5 they please.

6 But I did want to place anyone on  
7 notice since it is a public courtroom that pictures  
8 will be taken at 2 o'clock.

9 MR. GONZALES: Thank you, Your  
10 Honor.

11 MR. GILES: Thank you.

12

13 BY MR. GILES:

14 Q. Mr. Collins, you testified on direct and cross  
15 examination and redirect that you saw Mr. Hubbard and  
16 Mr. Penn, walking across Mack down Gray after you left  
17 the store; is that correct?

18 A. Yes.

19 Q. Isn't it true that during your testimony at the  
20 preliminary exam you testified that you didn't see  
21 them?

22 A. No, I didn't.

23 Q. Looking at page thirteen of the preliminary exam. No.  
24 All right..

25 Let's go to page fifteen, Mr.

1 Collins.

2 At the exam you were asked the  
3 question: Did you ever at any point in time before you  
4 will heard the shots fired, did you ever at any point  
5 in time see Goff and this person leave the store or  
6 walking anywhere?

7 Answer: I seen him. I seen him  
8 come inside the store. They were  
9 talking like they was really cool.

10 Question: After that happened, sir,  
11 after you left the store, was there  
12 ever any point and time that you  
13 saw Goff and the person you  
14 identified in this photo leave  
15 the store or walking together?

16 And your answer was: No, sir..

17 Q. Do you recall making those statements?

18 A. Yes, sir?

19 A. Yes.

20 Q. And what you are testifying to date is different; is  
21 that correct?

22 A. No.

23 Q. You testified here that you did not see them at any  
24 time leaving the store.

25 But you testified today in Court

1           that you did. You saw them walking across Mack?

2           A. I seen at the street walking across Mack?

3           Q. So what you are saying is what is in the exam and from  
4           your testimony in the preliminary exam is not true; is  
5           that correct? Is that correct?

6                       MR. GONZALES: I will object.

7                       That's improper impeachment. He's  
8           indicating on one hand he didn't see him leave the  
9           store. And on the other hand, he did see them walking  
10          walking across Mack.

11                      THE COURT: I am going to ask that  
12          you rephrase the question, counsel.

13          BY MR. GILES:

14          Q. Okay.

15                      The question specifically asked at  
16          the exam, it says: After you left the store, was there  
17          ever any point in time that you saw Goff and the person  
18          you identified in this photo leave the store or walking  
19          together?

20                      Answer: Answer was: No, sir. The  
21          answer was: No, sir.

22                      That's what you testified to; is  
23          that correct?

24          A. Right.

25          Q. Okay.

1 Are you now saying that you did see  
2 them at some time after they left the store?

3 That's your testimony today;  
4 correct. That you did see them; is that correct?

5 A. I saw them walking across the street.

6 Q. Okay. So what you said at the exam is a lie; is that  
7 correct?

8 A. No.

9 Q. No?

10 Q. At the exam you said you didn't see them.

11 MR. GONZALES: I object to that,  
12 Judge. That's not quite correct.

13 THE COURT: It is cross  
14 examination, so I'll allow it.

15 THE COURT: Go ahead and ask the  
16 question.

17 BY MR. GILES:

18 Q. At the exam you said you did not see -- did not see  
19 them walking across -- did not see them at any time,  
20 was the question.

21 You said: No.

22 Now, you are saying you did see  
23 them?

24 A. I don't fairly recall.

25 Q. You don't remember now.

1 MR. GILES: No further questions.

2 REDIRECT EXAMINATION

3  
4 BY MR. GONZALES:

5 Q. Did you actually see them leave the store?

6 A. I didn't see them leave the store. I seen them by the  
7 street.

8 MR. GONZALES: Nothing further.

9 THE COURT: Anything else?

10 MR. GILES: No, Your Honor.

11 THE COURT: You can step down, sir.

12 Thank you.

13 MR. GONZALES: Judge, no further  
14 witnesses for the People.

15 But there is one remaining  
16 stipulation with respect to the last witness. I  
17 believe we have not dealt with on the witness list.

18 That being assistant prosecutor  
19 attorney Glenn Paige.

20 Your Honor, it is my understanding  
21 that both defendant and defense counsel would enter  
22 into the following stipulation with respect to Mr.  
23 Paige's testimony.

24 It would be that he would testify  
25 as being employed with the Wayne County Prosecutors



1 Office and in fact was assigned as the assistant  
2 prosecuting attorney handling case number 88 1371.

3 He would testify that in that  
4 regard he was required to prosecute that case and that  
5 that case was scheduled for trial in front of the  
6 Honorable -- excuse me -- on April 18, 1988. And that  
7 it involved charges of murder in the first degree as  
8 against the defendant Carl Hubbard, as he would  
9 identify as being the one in this matter.

10 He would testify that on that trial  
11 date, the case was essentially dismissed without  
12 prejudice by Judge Roberson for the failure of  
13 essential witnesses to appear.

14 He would further testify that one  
15 of the essential witnesses who failed to appear would  
16 be in fact the deceased in this case, Mr. Rodnell Penn.

17 He would further testify that it  
18 was other additional witnesses beside Mr. Penn that  
19 failed to appear. But that in fact Mr. Penn himself  
20 was a witness who had in fact testified at the  
21 preliminary exam in case number 88 1371.

22 And for that matter the case was  
23 dismissed.

24 Further, Your Honor, there are two  
25 exhibits that have been shown to counsel.

1                   It is my understanding that we will  
2 stipulate to their entry. And I will have them marked  
3 now.

4                   MR. GILES: That's correct, Your  
5 Honor.

6                   MR. GILES: May I have a discussion  
7 with my client?

8                   THE COURT: Yes, you may.

9                   (A discussion was held off the  
10 record.)

11                   \*       \*       \*       \*       \*

12                   MR. GONZALES: Any objections?.

13                   THE COURT: Are there any  
14 objections?  
15

16                   MR. GILES: No, objections, Your  
17 Honor.

18                   MR. GONZALES: Your Honor, I submit  
19 to the Court now People's Proposed Exhibits Number 26,  
20 and 27.

21                   26 identified as a two-page  
22 document that represents the Order of the Recorders  
23 Court, Honorable Murphy on the date January 16th, 1988,  
24 which would be -- would be a bench warrant for the  
25 person of Rodnell Penn for failure to appear. In the

1 case I just described.

2 And also an affidavit to that  
3 effect attached thereto.

4 Secondly, the People's Proposed  
5 Exhibit Number 27, is the motion and order of dismissal  
6 of case number 88, 1371, involving the People of the  
7 State of Michigan versus Carl Hubbard.

8 And that the defense moved for  
9 dismissal of the case based on the fact that essential  
10 witnesses had failed to appear. And this the order of  
11 dismissal was without prejudice. Signed 4-14-88 by the  
12 Honorable Dalton A. Roberson.

13 I move for their admission at this  
14 time, Your Honor.

15 THE COURT: Any objection?

16 MR. GILES: No objection, Your  
17 Honor.

18 THE COURT: Court will receive  
19 Exhibits 26 and 27 into evidence.

20 No objection as to the waiver and  
21 stipulation that was read into the record, as to  
22 assistant prosecutor Glenn Paige; is that correct?

23 MR. GILES: That's correct, Your  
24 Honor, no objection.

25 THE COURT: All right.

1 Mr. Hubbard, do you agree with your  
2 attorney?

3 THE DEFENDANT: Yes.

4 THE COURT: All right.

5 The Court will accept the  
6 stipulation.

7 MR. GONZALES: Lastly, Judge, I'd  
8 ask the Court to take judicial notice of, first of all,  
9 the scar at the back and side of Mr. Hubbard's head for  
10 what it is worth.

11 I would ask the Court to accept and  
12 I ask counsel to accept my description of it as being  
13 on the left side of the back of his head, above the  
14 ear, approximately three or four inches length.

15 THE COURT: The Court will take  
16 judicial notice and accept the stipulation.

17 MR. GONZALES: That's it, Judge.

18 No further witnesses. And the  
19 People would rest.

20 THE COURT: Any defense at this  
21 time?

22 MR. GILES: Yes, Your Honor.

23 I have a -- prior to beginning with  
24 defense witnesses, we have a motion for directed  
25 verdict on dismissal.

1 THE COURT: Go right ahead.

2 MR. GILES: Your Honor, the motion  
3 goes primary to the prosecutor has not in fact  
4 presented a prima facie case here.

5 Moreover going to the point that  
6 they have not shown that the defendant in this case,  
7 Mr. Carl Hubbard, did in fact kill, especially with  
8 malice aforethought, Rodnell Penn.

9 There was no testimony going to the  
10 fact that, or any evidence presented regarding a  
11 weapon, other than the bullets taken out of the  
12 deceased.

13 No guns were found on my client.  
14 No weapons. There is no testimony that he was ever  
15 seen with a weapon.

16 There -- the only testimony that  
17 even remotely -- that put my client in the general  
18 vicinity, two witnesses testified that he was in the  
19 general vicinity, Your Honor. Mr. Andrew Smith, who  
20 testified that he was in the area with two other males.  
21 And at sometime afterwards, he heard the shots. He  
22 came out and didn't see anybody in the area.

23 He also testified that he did not  
24 see Mr. Curtis Collins in the area.

25 The only testimony, the only other

1 testimony putting my client in the general area at the  
2 time is that of Mr. Collins.

3 It was testified that he did see  
4 him in the store. He identified him and the deceased.  
5 That upon leaving the store, there is testimony, his  
6 testimony, is that he saw him today in court, was that  
7 he saw them walking across Mack. However, in the  
8 preliminary exam testimony, his testimony was somewhat  
9 different.

10 When asked the question,  
11 specifically at the exam: Did you see -- did you ever  
12 see after he left the store -- was there ever any  
13 point in time that you saw Goff and the person  
14 identified in the photo leave the store walking  
15 together?

16 His answer was: No, sir.

17 So at that time of the exam, he's  
18 saying he didn't see them, Your Honor.

19 He then testifies that he, upon  
20 hearing the shots, he turns and a minimum distance of  
21 half block, according to one officer who testified, the  
22 evidence technician, approximately twenty-three hundred  
23 yards that he saw Mr. Hubbard running through a vacant  
24 lot. He couldn't identify what Mr. Hubbard was  
25 wearing.

1 He couldn't -- he testified that he  
2 did not see his face.

3 He testified that he identified him  
4 by the scar on the back of Mr. Hubbard's head which you  
5 have already taken judicial notice of.

6 Your Honor, I would say a picture  
7 is worth a thousand words.

8 The prosecutor has put in, I  
9 believe, the photo, People's Exhibit Number 21 which  
10 shows was taken February, during the daytime, Your  
11 Honor. And it was taken from the area during the  
12 front -- the side of the store, a picture going down  
13 the street on Mack -- I am sorry, Your Honor.

14 People's Exhibit Number 13 in the  
15 in photo, Your Honor, taken during the daytime, shows  
16 the officer standing in the general vicinity of where  
17 the crime scene was and from this distance during the  
18 daytime, you can just make out the silhouette of the  
19 officer.

20 On cross-examination with this  
21 officer and in viewing the picture, I asked him could  
22 he even make out his head. As I recall his testimony  
23 was that: No, he couldn't make it out but that he knew  
24 he had one because he knew this was him standing in the  
25 picture.

1           Your Honor, I would say that the  
2           creditability of the witness Collins, he has no  
3           creditability. He lied to this Court on Monday. He  
4           has come back here today and recanted that testimony,  
5           obviously.

6           He has told several different  
7           versions of what happened versus the testimony given  
8           here today and the testimony given at the exam, versus  
9           the testimony or the statement given to the police  
10          which he signed.

11          You know, several areas were  
12          conflicting in his own testimony. I would say that  
13          he's not credible.

14          I would say that under the  
15          conditions that this crime occurred, that it being at  
16          night; that the picture in and of itself will show that  
17          it would be virtually impossible for Curtis Collins to  
18          see what he said he saw.

19          Basically with that in mind, Your  
20          Honor, I would move to dismiss.

21          THE COURT: This Court had an  
22          opportunity to listen to the witnesses; listen to the  
23          testimony of numerous witnesses. And this Court does  
24          understand that this Court must look in the light most  
25          favorable to the non-moving party, and/or whether or



1 not the People have presented proof where a jury could  
2 find guilt beyond a reasonable doubt.

3 This Court specifically listened to  
4 the testimony of Curtis Lenell Collins.

5 This Court had an opportunity to  
6 examine that witness on Monday.

7 And also had an opportunity to exam  
8 that witness today while he testified.

9 And this Court knows full well that  
10 this Court is free to accept and believe all, some or  
11 none of the testimony of any of the witnesses.

12 But based upon all the witnesses  
13 that I have heard thusfar, and based upon some of the  
14 testimony that this Court does believe centering in and  
15 around Curtis Linell Collins' testimony, this Court  
16 does find that this prosecution has satisfied its  
17 burden of proof at this point in time.

18 I am going to deny your request for  
19 a directed verdict.

20 Do you have any defense that you'd  
21 like to present at this time, counsel?

22 MR. GILES: Yes, Your Honor.

23 I'd like to call Raymond Williams.

24  
25 R A Y M O N D W I L L I A M S

1  
2 called as a witness by the Defendant,  
3 being duly sworn by the Court Clerk,  
4 was examined and testified upon his  
5 oath, as follows:

6  
7 DIRECT EXAMINATION

8  
9 BY MR. GILES:

10 Q. Mr. Williams?

11 A. Yes.

12 Q. I want to ask you, do you know a person by the name of  
13 Curtis Collins?

14 A. Yes, I do.

15 Q. And how are you acquainted with Mr. Collins?

16 A. We have been best friends for about seven or eight  
17 years.

18 Q. Okay.

19 You know a gentleman by the name of  
20 Carl Hubbard?

21 A. I do now. I knew him by his street name.

22 Q. What is his street name?

23 A. Goft.

24 Q. You know a person by the name of Roney Fuller?

25 A. Pardon me?

1 Q. I said: Do you know a person by the name of Roney  
2 Fuller?

3 A. No, sir.

4 Q. You know a person by the name of big Ron?

5 A. Yes, I do.

6 Q. Okay.

7 Mr. Williams, I am going to ask you  
8 to recall the day of January 17th, 1992.

9 But before I do that, I want to ask  
10 you: Did you know a person by the name of Rodnell  
11 Penn?

12 A. No, sir, I don't.

13 Q. Do you know about a fatal shooting that occurred on  
14 Gray Street in January?

15 A. I heard about the shooting the next day but I don't  
16 know about it. No, I do not.

17 Q. The next day. That would be the 18th, correct?

18 A. Yes, sir.

19 Q. January 17th of 1992, did you see Curtis Collins?

20 A. Yes, I did.

21 Q. At what time did you see him?

22 A. Around about prior to about, around about 8 o'clock.

23 Q. Where were you at when you saw him?

24 A. I was at big Ron's house on Dickerson and Corbett  
25 around about five houses off the corner.

1 Q. Curtis Collins was at the house?

2 A. Yes, sir, he was.

3 Q. You said this was around 8 o'clock?

4 A. Yes, sir, it was.

5 Q. And what time did you leave the house?

6 A. I left the house around about ten o'clock or 10:05.

7 Somewhere around in there.

8 Q. Okay.

9 And during the time you were at the

10 house, Curtis Collins was there?

11 A. Yes, sir, he was.

12 Q. He was there the entire time from 8, around 8 o'clock

13 to 10 o'clock?

14 A. Yes, he was. We were gambling.

15 Q. To your knowledge did he leave your presence?

16 A. No, sir, he didn't.

17 Q. During that two-hour period?

18 A. No, sir, he didn't.

19 Q. Okay.

20 You had left the house around 10

21 o'clock?

22 A. Yes, sir, I did.

23 Q. When you left the house, was Curtis Collins still

24 there?

25 A. Yes, he was.

1 Q. Can you tell me, Mr. Williams, how is it that you can  
2 remember January 17th?

3 A. (No response).

4 Q. Does anything else stick out in your mind about that  
5 day?

6 A. The motion picture Juice came out and I went to see  
7 Juice that night?

8 A. That was my reason for leaving at 10:00, 10:05.

9 Q. Okay.

10 Just one more question please, Mr.  
11 Williams.

12 Has anybody promised you or offered  
13 you anything regarding your testimony here today?

14 A. No, sir.

15 Q. Okay.

16 Your testimony here today is the  
17 truth as you know and understand it?

18 A. Yes.

19 Q. Thank you.

20 MR. GILES: No further questions,  
21 Your Honor.

22 CROSS-EXAMINATION

23  
24 BY MR. GONZALES:

25 Q. Good morning, Mr. Williams?

1 A. Good morning.

2 Q. You are friends with Mr. Hubbard, are you not?

3 A. Mr. Hubbard?

4 Q. Goft?

5 A. We -- well, not exactly friends. We speak to each  
6 other on a friendly basis.

7 Q. You sold crack for him; didn't you?

8 A. What?

9 Q. You sold drugs for him?

10 A. I didn't do such a thing.

11 Q. You never sold drugs for him?

12 A. No, sir, I haven't.

13 I barely know the man.

14 Q. You said you were with Curtis Collins?

15 A. Yes, sir.

16 Q. And you are saying Curtis Collins was with you on  
17 Corbett street; is that correct?

18 A. He wasn't with me. He was there.

19 Q. He was there with you at that time?

20 A. Yes, sir, he was.

21 Q. And you agreed with Curtis Collins -- excuse me.

22 You agreed that Curtis Collins was  
23 there until approximately 10:00 to 10.05; is that  
24 correct?

25 A. Yes, sir, I do.

1 Q. But you don't agree that you you sold crack for him?

2 A. No, I do not agree that I sold crack for that man.

3 Q. Okay.

4 Now, the testimony I understand is  
5 that you had to leave at 10:05 p.m., is that correct,  
6 sir?

7 A. No. I didn't have to leave at 10:05 p.m..

8 Q. Why did you say that was the reason you left at 10:05  
9 p.m.?

10 A. The reason I left at 10:05 p.m., was because I was  
11 going to the show.

12 Q. The show?

13 A. Yes, sir.

14 Q. And you wanted to get there on time?

15 A. No, sir .

16 Q. You wanted to be late?

17 A. It ain't that I wanted to be late.

18 It is that I was losing my money  
19 gambling. I got -- I got carried off with that game,  
20 you know.

21 Q. So what did 10:05 have to do with your losing at  
22 gambling?

23 A. What did it have to do with losing at gambling.

24 Q. Yes.

25 A. It had to do with me making a date to the show.

1 Q. Okay.

2 So the fact that you left at 10:05  
3 had nothing to do with the fact that you were losing  
4 the game; isn't that correct?

5 A. Yes, sir.

6 Q. The reason you left at 10:05 is because you wanted to  
7 make the movie?

8 A. Yes.

9 Q. But then you didn't make the movie; you were late?

10 A. I did make the movie so I -- I was late.

11 Q. After 10:05 you have no idea whatsoever what Curtis  
12 Collins did, do you?

13 A. No, sir, I do not.

14 Q. All right.

15 You don't know if he went over to  
16 the Mack and Gray Party Store, do you? You don't know  
17 that; is that right?

18 A. Mack and Gray Party Store had closed.

19 Q. Sir, I didn't ask you if it was opened or closed; did  
20 I?

21 A. No, sir, you didn't.

22 Q. I asked you: You don't know when -- whether he went  
23 over there; whether it was opened or closed; do you,  
24 sir?

25 A. No, sir, I don't know whether he did.



1 Q. Is there any particular reason that you wanted to tell  
2 us that the Mack and Gray Party Store was closed at  
3 10:00?

4 A. No particular reason.

5 Q. You thought you would throw that out for the Judge to  
6 hear it?

7 A. It was closed?

8 Q. Why did you bring that up?

9 A. Why won't I bring it up?

10 Q. Well, how about this:

11 The reason you had to bring it up  
12 is so that you would make sure that this Court heard  
13 that Curtis Collins wouldn't go over there, if the  
14 store was closed; isn't that correct?

15 A. Maybe. Maybe not.

16 Q. You also know that Curtis Collins has talked to you  
17 about this case; has he not?

18 A. Yes, sir, he has.

19 Q. You've called him?

20 A. Called him, no, no, no.

21 Q. Well, you used your girlfriend's three-way line?

22 A. My girlfriend called him.

23 Q. You used your girlfriend's three-way phone conversation  
24 before today; isn't that correct?

25 A. Yes, sir, it is.

1 Q. And the two of you cooked up this plan to come in here  
2 and both say that you were on Corbett street; isn't  
3 that correct?

4 A. No, sir, it isn't.

5 Q. So Curtis Collins was on Corbett Street with you; isn't  
6 is that correct?

7 A. Yes, sir, it is.

8 Q. If he came in here and said he was on Corbett Street,  
9 he's telling the truth; isn't he?

10 A. Yes, sir.

11 A. Yes, sir, he is.

12 Q. That's all I have, Mr. Williams..

13 MR. GONZALES: Nothing further,  
14 Your Honor.

15 THE COURT: Any other questions,  
16 Mr. Giles?

17 MR. GILES: No further questions.

18 THE COURT: Just a couple of  
19 questions, if I might.

20 On January 17th, you had an  
21 opportunity to see the movie Juice?

22 THE WITNESS: Yes, sir, I did.

23 THE COURT: You like movies?

24 THE WITNESS: Yes, sir, I do.

25 THE COURT: You saw the movie Boys

1 in the Hood?

2 THE WITNESS: Yes, sir, I did.

3 THE COURT: And what date and what  
4 time did you see that movie?

5 THE WITNESS: Boys in the Hood?

6 THE COURT: Yes.

7 THE WITNESS: I am not sure.

8 THE COURT: I have no more  
9 questions.

10 You can step down. Thank you.

11 R O N E Y F U L T O N

12  
13 called as a witness by the Defendant,  
14 being duly sworn by the Court Clerk,  
15 was examined and testified upon his  
16 oath, as follows:

17  
18 DIRECT EXAMINATION

19  
20 BY MR. GILES:

21 Q. Good afternoon, Mr. Fulton.

22 Mr. Fulton, do you know a person by  
23 the name --

24 THE COURT: What is your full name,  
25 witness?

1 THE WITNESS: Roney Fulton.

2 THE COURT: Thank you.

3 Now, you may proceed.Ahead.

4 BY MR. GILES:

5 Q. Mr. Fulton, what street do you live on?

6 A. 12822 Corbet.

7 Q. And, Mr. Fulton, do you know a person by the name of  
8 Curtis Collins?

9 A. Yes.

10 Q. And how long have you known him?

11 A. For about twelve years.

12 Q. Is he a friend of yours?

13 A. Yes.

14 Q. And do you know a person by the name of Raymond  
15 Williams?

16 A. Yes.

17 Q. Let me backup.

18 Curtis Collins has a nickname or a  
19 street name; does he?

20 A. Kurt Baby.

21 Q. And he's also known by Kurt Baby?

22 A. Yes.

23 Q. Raymond Williams, does he have a street name?

24 A. Murphy.

25 Q. How long have you known him?

1 A. Twelve years.

2 Q. Do you know anything about a fatal shooting on January  
3 17th, 1992 on Gray and Mack?

4 A. Yes, I knew it was a shooting, I know. I know that.

5 Q. Okay. Let me stop you there.

6 When did you first hear about this  
7 shooting?

8 A. I was at home when a friend of mine had called and she  
9 asked me --

10 MR. GONZALES: Objection to any  
11 hearsay.

12 THE COURT: Let's not ask for any  
13 hearsay.

14  
15 MR. GILES: All right, Your Honor,  
16 thank you.

17 BY MR. GILES:

18 Q. All right. Do you know --

19 THE COURT: (Interposing) Actually,  
20 if you don't mind, we're going to break now.

21 We're going to break a little bit  
22 earlier. So I am going to ask that you have this  
23 witness come back at 2 o'clock.

24 THE COURT: You are going to have  
25 to come back at 2 o'clock. Don't be late. 2 o'clock

1 sharp.

2 Thank you, gentlemen. I will see  
3 2 o'clock, counselors.

4 THE DEPUTY: All rise.

5 This Court is in recess.

6 (Lunch break)

7 \* \* \* \*

8 \* \* \* \*

9  
10 THE DEPUTY: Court's back in  
11 session. Please be seated.

12 THE COURT: All right. Whenever you  
13 are ready, counsel, you can proceed.

14 MR. GILES: Thank you, Your Honor.

15 BY MR. GILES:

16 Q. Mr. Fulton, you've already stated that you have  
17 known -- you know Curtis Collins, right?

18 A. Yes.

19 Q. You've known him approximately twelve years?

20 A. Yes.

21 Q. The same thing with Mr. Williams.

22 You have known him for about  
23 approximately twelve years?

24 A. Right.

25 Q. Do you recall the day -- I want you to recall the day

1 of January 17th, 1992.

2 Did you see Curtis Collins on that  
3 day?

4 A. Yes.

5 Q. Okay. Where did you see him at?

6 A. At my house.

7 Q. Approximately what time was he at your house?

8 A. Well, he had spent the night; spent the whole day  
9 there.

10 Q. And how long was he there?

11 A. He was there -- he was there for several days after the  
12 17th.

13 Q. Okay.

14 But on the 17th he was there, is  
15 your testimony he was there all day?

16 A. Yes.

17 Q. Okay. Were you at home all day on the 17th?

18 A. Yes.

19 Q. In particular that evening, do you recall being at  
20 home?

21 A. Yes.

22 Q. Okay. And Mr. Collins was with you also?

23 A. Yes.

24 Q. Was there -- was Mr. Williams with you on the 17th?

25 A. For a little while. For a short while, you know. Re

1 was there for about three hours.

2 Q. Okay.

3 What time did Mr. Williams arrive  
4 at your house?

5 A. About 8 o'clock.

6 Q. And what time did he leave?

7 A. About 10, 10:30.

8 Q. Okay.

9 Are you aware there was a shooting  
10 on Gray and Mack on the 17th?

11 A. Yes.

12 Q. When did you become aware of that?

13 A. At about 9:30. A little while before Murphy had left.  
14 I figured it was about 9:30, 10 o'clock. Around that  
15 time.

16 Q. You said around 9:30, 10 o'clock?

17 A. Right.

18 Q. This is on the 17th?

19 A. Yes.

20 Q. Okay.

21 It is also your testimony that Mr.  
22 Collins was still at your house at least a couple of  
23 days after that?

24 A. Right.

25 Q. Are you aware of a Detroit Police Detective by the name



1 of Sergeant Kenny?

2 A. Yes.

3 Q. How did you become aware of Sergeant Kenny?

4 A. Well, she called my house and she asked for --

5 MR. GONZALES: (Interposing)

6 Hearsay objection.

7 THE COURT: What is the basis of  
8 the objection?

9 MR. GONZALES: Hearsay, Your Honor.

10 THE COURT: Let's not ask for any  
11 hearsay.

12 BY MR. GILES:

13 Q. Have you ever met Sergeant Kenny?

14 A. Yes.

15 Q. And where did you meet Sergeant Kenny at?

16 A. On Gray and Mack.

17 Q. And how is it that you met her?

18 A. Okay.

19 She drove up and she had two  
20 pictures in her hand and she asked, you know, did I  
21 know anybody on the pictures.

22 Q. She showed you some pictures?

23 A. Right.

24 Q. Who was with you then?

25 A. Curtis and Murphy.

1 Q. That's Curtis Collins and Raymond Williams?

2 A. Right.

3 Q. Thank you.

4 MR. GILES: No further questions,  
5 Your Honor.

6 MR. GONZALES: I have some  
7 cross-examination, Your Honor.

8 CROSS-EXAMINATION

9  
10 BY MR. GONZALES:

11 Q. Good afternoon, Mr. Fulton?

12 A. Good afternoon.

13 Q. Okay. Mr. Fulton, you have been in this courtroom  
14 during the time that testimony has been taken; have you  
15 not, sir?

16 A. Yes, sir.

17 Q. You were here yesterday when witnesses were testifying  
18 and you were also here Monday; isn't this correct?

19 A. Yes.

20 Q. You heard witnesses testifying, did you not?

21 A. Yes, sir.

22 Q. Weren't you advised to wait outside in the hallway?

23 A. Sir?

24 Q. Didn't somebody tell you to wait outside in the  
25 hallway, Mr. Fulton?

1 A. And I did so, sir.

2 Q. You were in here during the time witnesses would  
3 testify; were you not?

4 A. Yes, sir.

5 Q. Yes.

6 A. But I was advised to do so, step out, I stepped out.

7 Q. Okay.

8 Now, how is it that you know that  
9 there was a shooting at 9:30 or ten o'clock?

10 A. Well, because one of my friends had called and said  
11 somebody had got killed on Gray.

12 Q. And you weren't on Gray, were you?

13 A. No, sir.

14 Q. You have no idea what time anybody was killed, do you?

15 A. No, sir .

16 Q. Why do you say 9:30 or ten?

17 A. Because that's the time I got the phone call.

18 Q. And who did you get the phone call from?

19 A. From Kay.

20 Q. What is Kay's full name?

21 A. I am not really for sure. I know we call him Kay;  
22 that's all I know.

23 Q. He knows your phone number?

24 A. Yes, he does.

25 Q. And he called you out of blue to tell you somebody was

1 killed on Gray?

2 A. Yes. He called me to say somebody was killed on Gray  
3 because I am -- I be on Gray everyday.

4 Q. And you had, yourself, not been on Gray at that point  
5 in time; is that correct?

6 A. Right.

7 Q. You were over at your premises, you say on Corbet or  
8 Dickerson?

9 A. Corbet.

10 Q. Corbet.

11 Okay. Now, you were thre, you  
12 said --

13 A. (Interposing) All day.

14 Q. I didn't finish asking the question.

15 A. Okay. Thank you.

16 Q. You were there in the evening hours with a person by  
17 the name of Raymond Williams; is that correct?

18 A. And Curtis Collins.

19 Q. I didn't ask about him yet.

20 A. Yes.

21 Q. You were there also with a person by the name of Curtis  
22 Collins?

23 A. Yes.

24 Q. How was it, sir, that you particularly remember not  
25 only the day, but you also remember the time that these

1 folks left?

2 A. Well, because, Raymond Williams said he was going to  
3 the show. He had to be there at 10 o'clock. He had a  
4 ten o'clock show. He was going to the show.

5 And I particularly remember because  
6 he was playing around in front of house with his Jeep  
7 in the snow. That's how come I particularly remember  
8 plus someone had got killed.

9 Q. Now, how do you know that it was a 10 o'clock show?

10 A. Excuse me?

11 Q. How do you know it was a 10 o'clock show?

12 A. Because that's what he said.

13 Q. Did you talk with Mr. Williams at all before this  
14 trial?

15 A. No.

16 Q. How did you know to come here?

17 A. How did I know, because Curtis my friend. I came down  
18 here with Curtis. I came to bring him down here. I  
19 really didn't come to testify at all.

20 Q. When did you first find out that you were going to  
21 testify?

22 A. Yesterday.

23 Q. Who told you?

24 A. His lawyer.

25 Q. Mr. Giles?

1 A. Right.

2 Q. When you say his lawyer, you are talking about Goff's  
3 lawyer?

4 A. Yes.

5 Q. And you knew Goff some period of time before this date?

6 A. No, I don't even really -- I have never had a  
7 conversation with Goff.

8 Q. My question was: Did you know him at all?

9 A. No.

10 Q. Now, did you also know that Curtis Collins testified  
11 that he was not at your premises on Corbet?

12 A. No.

13 Q. Okay.

14 Mr. Fulton, your nickname is Big  
15 Ron?

16 A. No.

17 Q. Your nickname is not Big Ron?

18 A. No.

19 Q. Little Ron?

20 A. No.

21 Q. Okay.

22 You said that you know Mr. Williams  
23 as Murphy?

24 A. Right.

25 Q. And you've known him for twelve years?

1 A. Yes.

2 Q. Do you know him to have any association with Goft?

3 A. No, not really -- no.

4 Q. Can you explain your answer?

5 A. No, not really.

6 I mean, I wouldn't know if he  
7 had any conversations with him. But I don't really see  
8 Goft on Gray and I be on Gray everyday.

9 Q. My question is: Do you know if Murphy and Goft know  
10 each other?

11 A. Yes, I know they know each other.

12 Q. How do you know that?

13 A. Just from hearsay, you know, hearing it around.

14 Q. From who?

15 A. From numerous -- a lot of people.

16 Q. Did you talk to Raymond Williams at all before this  
17 trial?

18 A. No.

19 Q. What time, if any, did Mr. Collins leave your premises  
20 that day?

21 A. He didn't.

22 Q. He stayed there all night?

23 A. Yes.

24 Q. He never left?

25 A. No.

1 Q. You watched him the whole time?

2 A. We were shooting dice together, the whole time.

3 Q. Okay.

4 Now, you said that you met Sergeant  
5 Kenny in the presence of Curtis Collins; isn't that  
6 correct?

7 A. Yes, sir.

8 Q. And isn't it true, that at that point in time Curtis  
9 Collins indicated he recognized someone in the  
10 photos; is that right?

11 A. Yes.

12 Q. And he went with Sergeant Kenny?

13 A. Yes.

14 Q. He wasn't arrested, was he?

15 A. No.

16 Q. He wasn't -- he went voluntarily?

17 A. Yes.

18 Q. She didn't pull out a gun and put cuffs on him and take  
19 him with her?

20 A. No.

21 Q. Murphy, though, Raymond Williams, didn't recognize  
22 anyone, did he?

23 A. No.

24 Q. And did you recognize anyone in the photos?

25 A. No.



1 Q. Was it -- was either of those photographs of Mr.  
2 Hubbard?

3 A. Yes.

4 Q. And you said --

5 A. (interposing) One of them.

6 Q. And you said you didn't recognize them?

7 A. Yes.

8 Q. Oh, you did recognize --

9 A. I said I didn't recognize it.

10 Q. Okay.

11 So you are saying that Curtis  
12 Collins went, as far as your understanding, voluntarily  
13 with Sergeant Kenny? She didn't force him?

14 A. Right.

15 Q. Did you know if Curtis Collins in fact was wanted by  
16 the police?

17 A. Yes, I did know that he was wanted by the police.

18 Q. Okay.

19 So you know that fact and still  
20 your testimony is that he went voluntarily over with  
21 the police?

22 A. Yes.

23 Q. Okay.

24 MR. GONZALES: Nothing further.

25 I have nothing further, Judge.

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THE COURT: Anything else?

MR. GILES: A couple of questions.

REDIRECT EXAMINATION

BY MR. GILES:

Q. Mr. Fulton, you testified on cross-examination that you just become aware yesterday that you were going to be a witness in this trial; is that correct?

A. Right.

Q. And that's after you had a conversation with myself, correct?

A. Yes.

Q. It is after that point that you become aware that you would be a witness, had you been in the courtroom?

A. No.

Q. After the point that you had contact with Sergeant Kenny, and you know that, as you have already testified to, that Curtis Collins had conversations and went with the police, to talk to Sergeant Kenny.

Did at any time after that point did he come back and talk to you about that?

A. He -- well, they didn't take him anywhere.

They took him on the side of the building and talked to him. And then they left.

Q. Okay.

1 At any point after that, are you  
2 aware that Sergeant Kenny contacted Curtis Collins or  
3 contacted you?

4 A. Yes.

5 Q. All right.

6 A. She called my house. And left a message with me to  
7 give to Curtis; to give to Tony Smith.

8 Q. Okay.

9 Did you give him that message?

10 A. Yes.

11 Q. And to your knowledge did he contact Sergeant Kenny?

12 A. Yes, he did.

13 Q. And is that the point that he was arrested, to your  
14 knowledge?

15 A. Yes.

16 Q. After he was -- after he was arrested and in particular  
17 after his testimony at the preliminary exam, did you  
18 have any conversations with Curtis Collins regarding  
19 his testimony?

20 A. Yes.

21 Q. Can you tell us the essence of that conversation?

22 MR. GONZALES: Well, Judge,  
23 hearsay.

24 THE COURT: I agree.

25 MR. GILES: Well, Your Honor, in

1 regard to hearsay we have had a great deal of hearsay  
2 regarding what this witness knows what Mr. Collins  
3 said.

4 THE COURT: We might have but if  
5 there is no objection, it comes in.

6 If there is a objection, I am going  
7 to have to sustain the objection. So the objection is  
8 sustained.

9 MR. GILES: Thank you, Your Honor.  
10 No further questions. Thank you.

11 THE COURT: Anything else?

12 MR. GONZALES: Yes, Judge, one  
13 moment.

14 RECROSS-EXAMINATION

15  
16 BY MR. GONZALES:

17 Q. Do you know if Curtis Collins and Raymond Williams had  
18 any conversation?

19 A. No, I do not know that.

20 MR. GONZALES: Nothing further,  
21 Judge.

22 THE COURT: You can step down.  
23 Thank you.

24 THE COURT: Do you have another  
25 witness at this time, counsel.

1 MR. GILES: Yes, Your Honor.

2  
3 T H O M A S S P E L L S

4  
5 called as a witness by the Defendant,  
6 being duly sworn by the Court Clerk,  
7 was examined and testified upon his  
8 oath, as follows:

9 DIRECT EXAMINATION

10  
11 BY MR. GILES:

12 Q. Good afternoon, Mr. spells.

13 Could you please give your full  
14 legal name to the Court?

15 A. Thomas James Spells.

16 Q. And, Mr. Spells, do you know a person by the name of  
17 Carl Hubbard?

18 A. Yes.

19 Q. How long have you known him?

20 A. About ten, twelve years.

21 Q. What is your relationship to Mr. Hubbard?

22 A. Friend.

23 Q. A friend?

24 A. Yes.

25 Q. All right.

1 Mr. Spells, I want to call your  
2 attention to the evening of January 17th, 1992.

3 Do you recall seeing Mr. Hubbard  
4 that day?

5 A. Yes.

6 Q. Okay. Where did you see him at?

7 A. At my house.

8 Q. What time was he at your house?

9 A. About 6, 7 o'clock.

10 Q. Was anyone else there?

11 A. No.

12 Q. He was at your house until what time?

13 A. We had left and then came back. That's after my wife  
14 had came.

15 We were going to go pick my son up  
16 from the babysitter.

17 Q. You left with Mr. Hubbard?

18 A. Yes.

19 Q. Do you know approximately what time?

20 A. About 9, 10 o'clock.

21 Q. When you left with Mr. Hubbard, where did you go?

22 A. We was going over to see mother's house.

23 Q. Over to Carl Hubbard's mother house?

24 A. Carl's mother's house.

25 Q. Did anything happen on your way to Carl's mother's

1 house?

2 A. We seen an ambulance over on the next street.

3 Q. That was on the next street. What street is that?

4 A. On Gray.

5 Q. Gray?

6 A. Yes, Gray.

7 Q. Did you go over on Gray?

8 A. Yes.

9 Q. What happened?

10 A. We got over there.

11 The ambulance was there and the  
12 police was there. And one of the detectives had talked  
13 to Carl and then we left.

14 Q. Where did you go then?

15 A. To Carl's mother's house.

16 Q. You said your wife came home while you and Carl were  
17 still at your house?

18 A. Yes.

19 Q. Is that a house or apartment?

20 A. Apartment.

21 Q. Approximately what time did she come home?

22 A. About 8:15, 8:20.

23 Q. During the period between 6 or 7, when you described  
24 that Carl first came to your house; and between 9 and  
25 10 when both you and he left, did Mr. Hubbard ever

1 leave your apartment?

2 A. No.

3 Q. You were with him the entire time?

4 A. Yes.

5 Q. Thank you.

6 MR. GILES: No further questions

7 Your Honor.

8 CROSS-EXAMINATION

9

10 BY MR. GONZALES:

11 Q. Good afternoon, Mr. Spells?

12 A. Good afternoon.

13 Q. Mr. Spells, you attended the preliminary examination,  
14 did you not, of this case?

15 A. Yes.

16 Q. Did you know the officer-in-charge on this case by the  
17 name of Sergeant Joann Kenny?

18 A. No.

19 Q. Did you ever talk to her?

20 A. No.

21 Q. The testimony you have given relates to the whereabouts  
22 of Mr. Hubbard.

23 On what date are you, sir, saying  
24 on what date?

25 A. I can't exactly remember the day.



1 Q. So you have no idea what day this what that you are  
2 talking about?

3 A. I can't remember the date but I know he was over there.

4 Q. So you don't know when this was?

5 A. I just know that he was over there.

6 I can't tell you what date it was,  
7 no, sir.

8 Q. Keep your voice up?

9 A. I can't tell you what date it was because I don't  
10 remember the date.

11 Q. You are saying though that you remember the times as  
12 being 6 and 7 p.m. that Mr. Hubbard was at your  
13 apartment; is that correct?

14 A. Yes, when he came over.

15 Q. And that you said that you left to go about 9:45 to 10  
16 P.M?

17 A. Between 9 and 10.

18 Q. You left on foot to go walking?

19 A. Yes.

20 Q. And you walked on Gray Street?

21 A. After we seen the ambulance, yes.

22 Q. And you walked on Gray Street.

23 Is that anywhere in the vicinity  
24 that you walked, the vacinity of the party store on  
25 Gray and Mack?

1 A. I haven't -- I never said that I went to the store on  
2 Gray and Mack.

3 Q. I asked you: Did you go anywhere in the vicinity of  
4 this store on Gray and Mack?

5 A. To get on Gray, to get on Gray. To get -- to get on  
6 the -- Okay. Yes, because I am right across the  
7 street.

8 Q. Which way were you coming from Gray Street?

9 A. From Dickerson.

10 Q. So you were heading east?

11 A. I was going towards Gray, yes.

12 Q. Now, where were you going; to what street?

13 A. We was on our way on Lenox. But we ended up on Gray  
14 because we seen an ambulance.

15 Q. Did you go up to the scene of the ambulance?

16 A. No.

17 Q. You never went up there?

18 A. No.

19 Q. Did Mr. Hubbard go up there?

20 A. No.

21 Q. How is it that Mr. Hubbard, you say, spoke with some  
22 detectives?

23 A. Because they was in the street.

24 We was on the sidewalk; they came  
25 up to the sidewalk.

1 Q. Were you present at the point in time that you spoke --  
2 excuse me.

3 Were you present at the point in  
4 time that you say Mr. Hubbard spoke to the detective?

5 A. Yes, I was standing on the sidewalk.

6 Q. What did Mr. Hubbard say?

7 A. I don't know because I wasn't listening to them.

8 Q. What was Mr. Hubbard wearing?

9 A. I just had on a coat because it was winter time and a  
10 pair of pants.

11 Q. What color coat?

12 A. I can't remember..

13 Q. Were you wearing your Michigan coat?

14 A. Who, me?

15 Q. Yes.

16 A. No, I had on a Piston coat.

17 Q. The two of you were walking together?

18 A. Yes.

19 Q. Did you know a person by the name of Rodnell Penn?

20 A. No.

21 Q. Not at all?

22 A. No.

23 Q. Okay.

24 Now, did you see anybody injured  
25 when you were in the area of the ambulance?

1 A. I didn't see nobody laying on the pavement, no.

2 Q. You didn't?

3 A. I take it he was already in the ambulance, I don't  
4 know.

5 Wasn't nobody laying out on the  
6 pavement if that's what you are asking me.

7 Q. Actually I didn't ask you that.

8 How do you know somebody was laying  
9 on the pavement?

10 A. I didn't say that.

11 I said I didn't see nobody laying  
12 out in the street.

13 Q. Did you know if anybody was laying out on the pavement  
14 or in the street?

15 A. When we got there, all we seen was the ambulance. I  
16 didn't see nothing else. The ambulance and the police.

17 Q. So you had no idea if anybody was laying anywhere, did  
18 you?

19 A. No.

20 Q. Okay. Well, why did you mention that you didn't see  
21 anybody laying on the pavement or on the street, Mr.  
22 Spelis?

23 A. Why did I mention it?

24 Q. Yes.

25 A. The ambulance was right there. Somebody had to be

1           laying somewhere and they kept us away from where --  
2           what supposedly he was laying at, the scene of the  
3           crime or whatever. They sectioned off a certain part  
4           of the street.

5           Q. Up to that point in time you hadn't heard any gunshots,  
6           had you?

7           A. No.

8           Q. So you didn't know there was any crime at all, did you?

9           A. No, sir.

10          Q. Did you pick up your son?

11          A. Yes.

12          Q. Did you go back to the apartment?

13          A. Yes.

14          Q. Was your wife there?

15          A. Yes.

16          Q. What time was that that you arrived?

17          A. Between 10 and 11.

18          Q. Mr. Bubbard with you the whole time?

19          A. Yes.

20          Q. You were on foot?

21          A. Yes.

22          Q. Okay.

23                               When did you learn you were going  
24                               to be a witness on this case?

25          A. When they came to his house and then his mother, when

1           called down there, his mother had told me.

2           Q. You learned right away that he was arrested?

3           A. Not right away.

4                               I didn't know until I got home from  
5           work.

6           Q. This was how many days after you were on Gray?

7           A. I don't know.

8           Q. A week, two weeks a month?

9           A. I don't know.

10          Q. Can you give us any estimate?

11          A. It was -- probably that week.

12          Q. Within seven days approximately?

13          A. Yes.

14          Q. Did you ever receive any messages from Sergeant Kenny?

15          A. She called and talked to my wife. She didn't talk to  
16          me.

17          Q. Did you ever talk to her?

18          A. No.

19          Q. Did you know she was the homicide detective in charge  
20          of this case?

21          A. Well, my wife told me she called, yes.

22                               I didn't know she was in charge but  
23          she had called the house.

24          Q. After she call the house at that point in time, did you  
25          know she was a homicide detective in this case?

1 A. No until we came to the preliminary hearing.

2 Q. You mean, on February 4, 1992, the time of preliminary  
3 exam?

4 A. I guess that's the date. I don't know.

5 Q. You went to the preliminary exam on that date, didn't  
6 you?

7 A. Yes.

8 Q. Do you remember being there and being identified by  
9 Officer Turner?

10 A. Yes.

11 Q. You remember him indicating that you were with Mr.  
12 Hubbard on the street that night?

13 A. Yes.

14 Q. After that point in time, you knew you were going to be  
15 a witness in this case?

16 A. Yes.

17 Q. You knew you were going to be testifying about where  
18 Mr. Hubbard was at that point in time?

19 A. Yes.

20 Q. You knew you were going to be testifying not only at  
21 this trial but at the earlier trial date we had for Mr.  
22 Hubbard?

23 A. Yes.

24 Q. Okay.

25 You told this to this Court what

1           you recollect as being the whereabouts of Mr. Hubbard,  
2           is that correct?

3       A.   Yes, sir.

4       Q.   Is there any reason why you didn't talk to Sergeant  
5       Kenny when she called?

6       A.   I was at work.

7       Q.   She called you before the trial date that was  
8       originally scheduled in this case; didn't she?

9       A.   As far as I know, she called once.

10      Q.   My question is: When she called was before the earlier  
11      trial date in this case?

12      A.   Before today.

13      Q.   You know this case was originally scheduled to go on  
14      June 15th?

15      A.   Yes.

16      Q.   She called before June 15th, didn't she?

17      A.   Yes.

18      Q.   And you said your wife talked to her?

19      A.   Yes.

20      Q.   But you didn't talk to her?

21      A.   No.

22      Q.   You never talked to any police officer about what you  
23      are telling Judge Hathaway today; is that correct?

24      A.   That's correct.

25      Q.   You never told any police officer whether related to



1 this case or not related to this case regarding what  
2 you knew to be the whereabouts of Mr. Hubbard; is that  
3 correct?

4 A. The Detective Turner when we was in the preliminary  
5 hearing, he remembered us being down there and he know  
6 we was down there but that's the only one.

7 Q. You didn't tell him, did you, that earlier you had just  
8 been with Mr. Hubbard?

9 A. I don't understand what you are saying.

10 Q. All right.

11 Did you tell Detective Turner at  
12 the preliminary exam on February 4th that Carl Hubbard  
13 couldn't have done this because he was with you walking  
14 down the street?

15 A. Yes.

16 Q. Did you tell that to Sergeant Kenny?

17 A. No. Because I hadn't talked to her.

18 Q. Why didn't you call her back?

19 A. I don't even know if she left a number.

20 Q. You are saying you couldn't get ahold of a Detroit  
21 police officer from homicide?

22 A. She called the house. She talked to my wife. She  
23 didn't talk to me.

24 I called the lawyer. And he told  
25 me I didn't have to talk to her.

1 Q. You had Mr. Giles number to call?

2 A. Yes.

3 Q. You didn't want to talk to Sergeant Kenny, did you?

4 A. I didn't want to?

5 Q. You didn't want to tell her about that you knew Carl

6 Hubbard couldn't have done this, right? You didn't

7 want to tell her that?

8 A. I could have told her that.

9 Q. But you didn't want to?

10 A. (No response)

11 Q. Isn't that correct?

12 A. What?

13 Q. Isn't that correct that you didn't want to tell her  
14 that?

15 A. It ain't that I didn't want to tell her. I would have  
16 told her the same thing that I am saying now.

17 Q. But you didn't; isn't that correct?

18 A. Yes, that's correct.

19 Q. Do you recall what your wife was doing when you  
20 returned?

21 A. Returned with my son, you mean?

22 Q. Correct.

23 A. She was taking a bath.

24 Q. Why is it that you remember the time so accurately?

25 A. Why I remember?

1 Q. The times.

2 A. Just was -- I wasn't watching no clock or nothing.

3 Q. So it could have been different times?

4 A. (No response)

5 Q. Is that correct?

6 A. I don't know.

7 I just know what time he came over.

8 I know what time he left to go get my son and I know  
9 what time I came back.

10 Q. You are positive about the times but you weren't  
11 looking at no clock, as you say, is that correct?

12 A. No.

13 Q. So you are not positive about the times?

14 A. I am positive about the times because of what was on  
15 T.V. at certain times.

16 Q. What was on T.V.?

17 A. I can't tell you what was on T.V, exactly.

18 Q. Then how do you know that the T.V. told you what time  
19 it was?

20 A. Because when certain shows come on, I know what time I  
21 left. We was gone for about a hour or so. So I  
22 just --

23 Q. Mr. Spells?

24 A. Yes.

25 Q. Isn't it true you were with Carl Hubbard at the time he

1 shot Rodnell Penn?

2 A. No.

3 Q. Isn't it true you had been up in the store with him and  
4 you saw Curtis Collins there?

5 A. No.

6 Q. Isn't it true that you walked up Gray with him when he  
7 put two bullets in his brain and three more in his  
8 back?

9 A. No.

10 Q. Nothing else.

11 MR. GONZALES: Nothing further,  
12 Judge.

13 REDIRECT EXAMINATION

14  
15 BY MR. GILES:

16 Q. Mr. Spells, you testified that you really weren't sure  
17 regarding the date, is that correct?

18 A. Yes.

19 Q. Okay.

20 But you do recall some of the  
21 incidents of that day, some of the incidents of that  
22 day; is that true?

23 A. Yes.

24 Q. For example, going on Gray and seeing the ambulance and  
25 the police?

1 A. Yes.

2 Q. From that you know that Mr. Hubbard was with you that  
3 day; is that correct?

4 A. Yes.

5 Q. What time does your wife normally get home from work?

6 A. About 8:15, between 8:15 and 8:30. Depending on if she  
7 has to walk or get a ride.

8 Q. And it is your testimony that's approximately the time  
9 that she came home on that evening, too; correct?

10 A. Yes.

11 Q. Did you leave immediately after she came home?

12 A. No.

13 Q. Okay.

14 You came to the preliminary exam in  
15 February; is that correct?

16 A. Yes.

17 Q. When there was testimony being given were you sitting  
18 in the courtroom?

19 A. I was at first but then they had me leave out of the  
20 courtroom.

21 Q. That was after they asked all potential witnesses to  
22 leave, is that correct?

23 A. Yes.

24 Q. You said that Sergeant Kenny called your home and  
25 talked to your wife?

1 A. Yes.

2 Q. To your knowledge or belief did she ask to speak to  
3 you?

4 A. She asked for either one of us.

5 Q. Okay.

6 A. I wasn't there so she talked to my wife.

7 Q. To your -- to your information did she leave any  
8 message regarding if she wanted you to call her or  
9 contact her?

10 A. She wanted us to come down there to the police station,  
11 yes.

12 Q. Okay.

13 MR. GILES: Excuse me.

14 (A discussion was held off the  
15 record.).

16 \* \* \* \*

17

18 MR. GILES: No further questions,

19 Your Honor.

20 RECROSS-EXAMINATION

21

22 BY MR. GONZALES:

23 Q. You knew to go down to the police station, thirteen  
24 hundred Beaubien, the Detroit Police Headquarters;  
25 isn't that correct?

1 A. Yes.

2 Q. And you never went down there?

3 A. No.

4 Q. So you never told the police at all about the  
5 whereabouts of Mr. Hubbard; is that correct?

6 A. No.

7 Q. Thank you.

8 MR. GONZALES: Nothing else.

9 THE COURT: Anything else.

10 MR. GILES: Nothing further.

11 THE COURT: You can step down.

12 Thank you.

13 VANESSA SPELLS

14

15 called as a witness by the Defendant,  
16 being duly sworn by the Court Clerk,  
17 was examined and testified upon  
18 her oath, as follows:

19 DIRECT EXAMINATION

20

21 BY MR. GILES:

22 Q. Miss Spells, please give your full legal name for the  
23 Court?

24 A. Venessa Spells.

25 Q. Okay.

1 Miss Spells, are you married to  
2 Thomas Spells?

3 A. Yes.

4 Q. And you have one child?

5 A. Yes, a son.

6 Q. Do you know a person by the name of Carl Hubbard?

7 A. Yes, I do.

8 Q. How long have you known Mr. Hubbard?

9 A. About a year or so.

10 Q. You've known him for about a year.

11 Miss Spells, I am going to ask you  
12 to direct your attention to January 17th, 1992.

13 Can you recall approximately what  
14 time you came home from work? You did -- you went to  
15 work that day?

16 A. Yes, I did.

17 Q. Do you recall what time you came home from work?

18 A. Around 8:15, 8:20.

19 Q. And who was at your home when you arrived there?

20 A. My husband Thomas Spells and Carl Hubbard.

21 Q. And at any time did your husband and Carl leave your  
22 home while you were there?

23 A. Yes, they did.

24 Q. And what time did they leave?

25 A. Around 10 o'clock.



1 Q. And did you see your husband and Carl any time again  
2 that day?

3 A. Yes, I did.

4 Q. Around, approximately what time?

5 A. Half hour later. About 10:30.

6 Q. Are you aware of a Detroit Police Officer by the name  
7 of Sergeant Kenny?

8 A. Yes.

9 Q. And how are you aware of her?

10 A. She called me at my home and asked me could I come down  
11 to police station to give a statement.

12 Q. Did you go down to the police station and give a  
13 statement?

14 A. No.

15 Q. Did you talk to Sgt. Kenny about what you know of  
16 January 17th?

17 A. No, I didn't.

18 Q. Did she ask you any questions about what you know of  
19 January 17th?

20 A. No.

21 She just wanted me to come down.

22 Q. Thank you.

23 MR. GILES: No further questions,

24 Your Honor.

25 THE COURT: Any questions?

MR. GONZALES: Yes, Judge.

CROSS-EXAMINATION

BY MR. GONZALES:

Q. Good afternoon, Miss Spells.

Miss Spells, why didn't you tell

Sergeant Kenny?

A. Tell her what?

Q. What you are telling the Court today?

A. Because I spoke to Mr. Hubbard's lawyer.

Q. Mr. Giles?

A. Yes.

Q. All right.

A. And he told me that I didn't have to go down there and say anything.

Q. He didn't tell you not to go down there, did he?

A. No, he didn't.

Q. So you made the decision, you made the decision after talking to him that you wouldn't go down?

A. Right.

Q. And you wouldn't go and tell the police who were investigating this case what you know?

A. No.

She told me that -- she sent me a

1 letter and told me that I didn't have to go down there  
2 unless I wanted to.

3 Q. And you didn't want to go down there, is my point,  
4 ma'am, isn't that correct?

5 A. Yes.

6 Q. You didn't want to go and tell the police who were  
7 investigating this case, that hey, this guy couldn't  
8 have done it because I saw him?

9 You didn't want to go tell the that  
10 to the police?

11 A. I already said -- told everything I had to said to his  
12 lawyer.

13 Q. Why didn't you want to tell it to the police who were  
14 investigating the case, ma'am?

15 A. Because she called and said that I could have been held  
16 in contempt of court if I didn't go down and say what I  
17 had to say.

18 And I was told by his lawyer that I  
19 didn't have to go down there.

20 Q. So you decided not to go down and tell her that this  
21 guy couldn't have done it? You didn't want to tell  
22 that to the police?

23 A. I was told that I didn't have to so I just decided not  
24 to.

25 Q. And this was before the last trial; before June 15th;

1           isn't that correct?

2           A.   Yes.

3           Q.   Since June 15th, you never decided to call Sergeant  
4           Kenny; is that correct?

5           A.   No.   Yes, that's correct.

6           Q.   You never wrote her any letter or told her your version  
7           of what happened?

8           A.   No.

9           Q.   Your husband Mr. Spells never did that either?

10          A.   No.

11          Q.   You never told anybody in law enforcement investigating  
12          this case whatsoever what you knew, other than the  
13          defense attorney; isn't that correct?

14          A.   Right.

15          Q.   So you had Mr. Giles' number before this date in time;  
16          is that right?

17          A.   Yes, I did.

18          Q.   You decided -- your first inclination was to call him,  
19          Carl Hubbard's lawyer; isn't that correct?

20          A.   Yes.

21          Q.   You're concerned about Carl Hubbard; isn't that  
22          correct?

23          A.   Yes.

24          Q.   You don't want anything to happen to Mr. Hubbard; do  
25          you?

1 A. Right.

2 Q. Okay.

3 And you are going to come in here  
4 and testify as best you can so nothing will happen to  
5 him; isn't that correct?

6 A. I am going to testify what I know about what is going  
7 on.

8 Q. Let's talk about what you know about what is going on.

9 How long were they gone, that you  
10 didn't see them?

11 A. Half hour.

12 Q. Positive of that?

13 A. Yes.

14 Q. You remember; you clocked the time?

15 A. They went down got the baby. My son and came back to  
16 the house.

17 Q. You clocked the time?

18 A. Yes, I did.

19 Q. You had a stop watch?

20 A. No, I didn't.

21 Q. You checked the time they left?

22 A. I checked the time they left and I checked the time  
23 when they got back.

24 Q. What were they wearing?

25 A. My husband had on some blue jeans and a jacket.

1 And Mr. Hubbard had on a jogging  
2 suit.

3 Q. Jogging suit?

4 A. Yes.

5 Q. He didn't have a coat on?

6 A. Not that I remember.

7 Q. You are positive of those items?

8 A. Yes.

9 Q. While they are gone, that exact half hour from your  
10 house, you have no idea what they did; isn't this  
11 correct?

12 A. I know they came back with my son; that's all.

13 Q. My question is: While they are gone, you have no idea  
14 what they did?

15 A. No, I don't have no idea what happened. They was  
16 gone.

17 Q. You didn't see them?

18 A. No.

19 Q. You were in your house?

20 A. Right.

21 Q. And what were you doing were when they returned?

22 A. Watching T.V.

23 Q. You are positive of that?

24 A. Yes.

25 Q. You weren't doing anything else but watching television

1           when they came in the door?

2           A.   Yes.

3           Q.   Thank you.

4                           MR. GONZALES:  Nothing further,  
5           Judge.

6                           THE COURT:  Anything else, Mr.  
7           Giles.

8                           MR. GILES:  No.  I have nothing  
9           else.

10                          THE COURT:  You can step down.  
11           Thank you.

12                          MR. GILES:  Defense will rest, Your  
13           Honor.

14                          MR. GONZALES:  No rebuttal.

15                          THE COURT:  Let's start in about  
16           ten minutes for closing in arguments.

17                          We will take a break right now,  
18           counsel.

19                          MR. GONZALES:  Thank you.

20                          THE DEPUTY:  All rise.

21                          Court's in recess.

22                          (A short break)

23  
24                          \*       \*       \*       \*       \*

25

1 THE COURT: Court's back in  
2 session.

3 THE COURT: You are ready for your  
4 closing arguments?

5 MR. GONZALES: I am, Your Honor.

6 MR. GILES: Yes, Your Honor.

7 THE COURT: Go right ahead.

8 MR. GONZALES: Thank you.

9 I thank the Court for his  
10 attention. I would ask the Court at this time to find  
11 the defendant guilty as charged.

12 Now, as the Court is well aware  
13 that motives don't prove everything. But the fact that  
14 the defendant in this case had a significant motive to  
15 want to eliminate Mr. Rodnell Penn. For the fact that  
16 Rodnell Penn had testified against him at a prior  
17 hearing.

18 And that prior case was in fact,  
19 was in fact a first degree murder case. And that in  
20 fact the Court is to instruct itself that motives do  
21 not in and of itself have the ability to prove guilt  
22 beyond a reasonable doubt.

23 I would be asking the Court to  
24 combine that with the following evidence. I know  
25 further that the Court is well aware that guilty



1 knowledge can be found from a false exculpatory  
2 statement. A statement that exactly in the manner in  
3 which the defendant gave in this case, in and of itself  
4 does not prove guilt beyond a reasonable doubt.

5 And I am sure the Court recognizes  
6 the particular points of that statement of the  
7 defendant on January 21, 1992. That that would show  
8 clearly to be false and -- clearly to be a falsely  
9 exculpatory statement and that that can be used by this  
10 Court to show the defendant's own guilty knowledge for  
11 what happened on that night.

12 And I am referring to those  
13 particular portions of the confession -- excuse me --  
14 admissions that were made on that date.

15 When he was asked do you know  
16 anything about a shooting that happened on Gray on  
17 Friday, January 17th, 1992. And he answered: No.

18 To the question: Were you on Gray  
19 Street Friday, January 17th, 1992? And he indicated:  
20 No.

21 And that also did you hear about  
22 anyone getting killed over on Gray Street? And he  
23 answered: No.

24 Do you know anybody that lives on  
25 Gray Street? And he answered: No. I don't hang out

1 that way.

2 Directly in contradiction to the  
3 testimony of his own witness, Mr. Spells, and Miss  
4 Spells. That in and of itself, I know, Judge, is not  
5 by itself alone enough evidence to prove beyond a  
6 reasonable doubt the defendant's guilt.

7 But I'd ask the Court to combine it  
8 with the further evidence.

9 The fact that we know from the  
10 testimony of the family members of Rodnell Penn, that  
11 he himself was involved in the sale of drugs for this  
12 defendant. And that fact in and of itself does show a  
13 relationship between the two of them involved in  
14 criminal enterprise. That in and of itself doesn't  
15 show the potential for motive for this person to have a  
16 killing of Mr. Penn.

17 But you combine that further,  
18 Judge, with the fact that the testimony of the officer  
19 that testified, he was Craig Turner; and that he was at  
20 the scene.

21 And the fact that he obtained from  
22 the defendant a statement that indicates that the  
23 killing was drug related. That up to -- at that point  
24 in time nothing had been mentioned to him involving in  
25 anyway that this killing was anything to do with drug

1 related. But nonetheless the Defendant indicates at  
2 that date and time to officer Turner that the murder is  
3 drug related. Before anyone had said anything to him.

4 I'd ask the Court to combine that  
5 with the further testimony, the fact that we have  
6 evidence that witnesses were in fact coached in this  
7 case.

8 That we have Curtis Collins clearly  
9 testifying what he was supposed to say. He was  
10 supposed to say that he was on Corbett street. And  
11 that he had been told who to say that by, that being  
12 Raymond Williams. And what we have -- we have Raymond  
13 Williams coming in and saying that exact statement.

14 Well, you can't finish there,  
15 Judge. You got to go on and consider that basis for  
16 believeability of Mr. Collins' testimony.

17 The Court will recognize initially  
18 when he testified, he testified that he was somewhere  
19 else. But throughout the lines of his testimony -- I  
20 am sure the Court heard in between the lines constant  
21 citing to his family, to his daughter, to his mother,  
22 things that he was concerned and scared about. I think  
23 at that point in time it is reasonable for this Court  
24 to have heard between the lines an overwhelming fear  
25 that that person had regarding what he knew to be the

1 truth.

2 Similarly he testified that he  
3 observed the body, the body laying in a particular, and  
4 I would cite peculiar way on its side and he described  
5 that both in his statement to the police. And in his  
6 statement today in court and in his statement Monday he  
7 indicated that he had said earlier. Clearly only  
8 description that someone would have had if he had been  
9 at that location.

10 He knows, Judge, he faces perjury  
11 charge; he knew that yesterday.

12 I submit that that was the reason  
13 why he changed but that not only. That he realized he  
14 had in fact he himself was being threatened and decided  
15 to bring that to the Court. That in and of itself is  
16 not complete evidence but you got to combine that  
17 further,

18 Judge. Combine that with what I  
19 would argue is incredible and clearly inconsistent  
20 alibi testimony. Inconsistent in the sense of what  
21 Miss Spells was doing upon the return, and incredible  
22 and the testimony of Mr. Spells. Unbelievable that  
23 both of them would remember so particularly and so  
24 exactly and so perfectly the time his and would in  
25 that that was the times involved.

1 But would not have the ability to  
2 remember other facts. That if their memory was so  
3 perfect they would be able to remember. Combine that  
4 with the, that Curtis Collins could have, in fact did  
5 have the ability and the applicability to observe what  
6 he says he observed.

7 Take a look at Exhibit Number 13,  
8 if the Court needs to, I have it here. It clearly  
9 shows approximately where Mr. Collins was standing in  
10 the person of the witness who testified, officer  
11 Richardson was standing, the Court could see with its  
12 own eyes where the defendant is and the manner in which  
13 Mr. Collins would have had the opportunity to see him.

14 Exhibit Number 18 shows the reverse  
15 angle, showing the store. Also he indicated there was  
16 the ability of light for him to see that night.

17 We have the photograph, Exhibit  
18 Number 9 showing the light across the street and the  
19 porch light in the house across the street.

20 The photographs show the driveway  
21 and show the body was not obscured by any snow but was  
22 within the range of the observations of Mr. Collins as  
23 he indicated he was able to see.

24 It is the combination of those  
25 factors, Judge, that I would ask the Court to consider

1 as a whole when the Court is considering what basically  
2 is a credibility call the Court is going to have to  
3 make.

4 Consider the combination of all of  
5 those factors and find the defendant guilty.

6 Thank you, Your Honor.

7 THE COURT: Mr. Giles?

8 MR. GILES: Thank you, Your Honor.

9 Your Honor, I'd like to thank you  
10 on behalf of myself and my client for your patience in  
11 listening to all the witnesses and testimony in this  
12 case because I know that's what you are here to do;  
13 that's your job. But I thank you anyway.

14 I'd like to speak first to a couple  
15 of issues that the prosecution brought up, more likely  
16 an issue of motive.

17 The prosecution here relates that  
18 this motive for my client to kill Rodnell Penn would  
19 have been that for a -- for Mr. Penn's testimony  
20 against him at a trial and a murder one trial that was  
21 dismissed four years ago, Your Honor, four years ago.

22 It was also testimony in particular  
23 from Mr. Penn's brother Leon Penn that Rodnell Penn has  
24 had a great deal of, for lack of a better word,  
25 activity involvement with Mr. Hubbard in the last few

1 years.

2 Your Honor, I would think that this  
3 motive was in itself very weak in that if Mr. Hubbard  
4 was going to kill someone for testifying against him at  
5 a trial that was dismissed on a case that was dismissed  
6 four years ago, he would -- and if that would have been  
7 a motive for killing that person, he would have done it  
8 a lot sooner than now.

9 Your Honor, in regard to the  
10 statement my client gave, the statement that was read  
11 into the court, I would say to this Court that in some  
12 of the questions that were asked by Sergeant Kenny to  
13 my client, that he obviously lied, did not tell the  
14 truth. He lied about not having -- not -- Rodnell Penn  
15 not being involved in a case that he was previously  
16 involved in.

17 In regard to the questions about,  
18 specifically about the killing and the shooting on Gray  
19 Street, Your Honor, I would say that those questions in  
20 and of themselves were vague.

21 He was asked whether or not he knew  
22 anything about the shooting. He said: No.

23 He wasn't asked specifically what  
24 he knew, if he was on -- in the area, et cetera et  
25 cetera, did he do it. Very specific question. He was

1 asked very general questions.

2 I'd like Your Honor to take that  
3 into consideration.

4 Your Honor, as to the witnesses  
5 here being coached, I would almost have to agree with  
6 the prosecutor here. However, these are the People's  
7 witnesses. And we have a lot of inconsistency and  
8 conflicting testimony from the People's witnesses, Your  
9 Honor.

10 For example, Mr. Leon Penn, Jr.,  
11 Rodnell's brother, testified that his brother spent the  
12 night with him on the 16th and that the last he saw him  
13 was on the morning of the 17th, when he left.

14 Yet another People's witnesses,  
15 Christopher Harris, testified that Rodnell Penn spent  
16 the night with him that night.

17 There was testimony from Miss  
18 Lucinda Gross, who just lives in the neighborhood.  
19 Although she testified she herself didn't hear any  
20 shots, as obviously she walked up on the body, had to  
21 be within minutes after this shooting occurred. Yet  
22 she didn't see any of the People's witnesses who were  
23 allegedly there.

24 She did not see Curtis Collins who  
25 she stated that she does not know.



1 She did not see Andrew Smith who  
2 she also stated she does not know. And she is the one  
3 who -- she left the crime scene and went directly to  
4 the store and called the police. Yet she didn't see  
5 any of those witnesses, Your Honor.

6 I would think that Miss Lucinda  
7 Gross was a very, very credible witness. Had no  
8 interest in this case.

9 Mr. Andrew Smith, Your Honor,  
10 testified that he saw my client in the general vicinity  
11 at the time with two other people. But he could not  
12 identify those two other people. He didn't know who  
13 they were.

14 He also was very specific in his  
15 testimony, he did not see Curtis Collins there; that he  
16 was at the store. He had been in the store. He came  
17 back; he came out afterwards. And that he saw Curtis  
18 Collins nowhere around.

19 Your Honor, you heard rebuttal  
20 witnesses testimony -- testimony from witnesses Ron  
21 Rodney -- Raymond Williams and Roney Fulton.

22 As to Raymond Williams, Raymond  
23 Williams testified that Curtis Collins was his best  
24 friend and has been for the last seven or eight years.  
25 And that Curtis was not on Gray and Mack at the time

1 this occurred because he was with him, and Mr. Fulton  
2 in Mr. Fulton's house gambling. And that he was there  
3 until approximately 10 o'clock. And had been there and  
4 arrived on the scene sometime around 8.

5 Also heard from Mr. Fulton who was  
6 also a friend of Mr. Collins; he's not a friend -- he  
7 was very specific in his testimony. He does not know  
8 Mr. Hubbard.

9 He met Mr. Hubbard once through  
10 introduction; he said hello. He said, hi. And that  
11 was the extent of his conversation and relationship  
12 with Mr. Hubbard. He was not here. His testified, as  
13 he testified here, was basically haphazard.

14 He didn't come to this Court  
15 because he got a subpoena to testify. He just happened  
16 to be here in the courtroom. And then he and I had a  
17 conversation and that's what led to his testimony, Your  
18 Honor.

19 Your Honor, you also heard alibi  
20 testimony from Mr. and Mrs. Spells, Thomas and Venessa  
21 Spells. The Spells are friends of Mr. Hubbard and they  
22 testified that he was in fact in their home at the time  
23 that this alleged event happened.

24 I would differ with the prosecution  
25 in regard to the consistency of their testimony.

1 Mr. Spells was very, even general  
2 in his times that he gave.

3 He said that Mr. Hubbard arrived at  
4 his home at approximately 6, 7 o'clock. They left  
5 sometime between 9 and 10. He couldn't even remember  
6 what date this was. Only reason he knew about the date  
7 was because of the other incident and the killing that  
8 happened on Gray. And that's the only way he could  
9 relate it altogether.

10 So in regard to very specific  
11 questions about what was this person wearing, what was  
12 this person doing, I think they are irrelevant, Your  
13 Honor. I think that he was specific that Mr. Hubbard  
14 was with him. And that he was consistent in that  
15 testimony.

16 The fact that he neither went to  
17 the police is irrelevant. He came to Court and  
18 testified to say what he had to say.

19 It is also testimony from several  
20 police officers in particular, Your Honor, I will  
21 direct your attention to police officer Richardson who  
22 is the evidence tech. Who described and gave detailed  
23 pictures and illustrations of the general area and  
24 scene.

25 Police officer Richardson who was

1           there that night testified that the crime scene, quote  
2           unquote, was in itself dark. That there were street  
3           lights on the corner of Gray and Mack. The houses that  
4           were where the crime scene was halfway down the block,  
5           Your Honor. And the only lighting was some porch  
6           lights and one yard light. That is shown in the  
7           picture.

8                         Your Honor, I would again ask you  
9           to closely examine People's Exhibit Number 13. Which  
10          is the picture showing police officer Richardson  
11          standing around the crime scene while the other officer  
12          is standing in the vicinity of the store on Gray and  
13          Mack.

14                        In that picture you can make out  
15          the outline of officer -- officer Richardson but you  
16          cannot make out any detail of his face, et cetera, et  
17          cetera.

18                        THE COURT: Before you continue,  
19          why don't you hand up the exhibits, counsel.

20                        MR. GONZALES: All of them, Your  
21          Honor?

22                        THE COURT: I'd like to see all of  
23          them but specifically right now I'd like to see 13 and  
24          25.

25                        Okay. Thank You. You can go

1 ahead, counsel.

2 MR. GILES: I would ask you to pay  
3 close attention to that picture for the reason that the  
4 I.D. made by Curtis Collins, and I will speak in  
5 greater detail to his testimony. But the I.D. made by  
6 Curtis Collins specifically was that the only way that  
7 he identified Mr. Hubbard as the person running from  
8 that scene was because he identified him from a scar on  
9 the back of his head. At a distance of, according to  
10 officer Richardson, at least two hundred yards in the  
11 dark.

12 We heard testimony from a Miss  
13 Shanta Holcomb who was the girlfriend of Rodnell Penn.

14 She testified that she talked to  
15 him somewhere between 8:30 and 9:00. And that she  
16 thought he was outside. However, the other testimony  
17 from Curtis Collins, from Andrew Smith, they had no  
18 testimony they saw anybody with Mr. Hubbard outside on  
19 the telephone; or that they saw anyone on the  
20 telephone, period.

21 As to Curtis Collins, Your Honor,  
22 the issue of creditability -- Curtis Collins, as you  
23 are aware, came into this Courtroom on Monday and said  
24 that lie -- that he lied at the exam. Everything he  
25 said at the exam was a lie. Everything he told the

1 police was a lie.

2 And that he did so because he was  
3 in fear from the police. That the police had  
4 threatened him; that they were going to put him away  
5 for a long time. That the police had made promises to  
6 him; that they were going to change his I.D.. They  
7 were going to give him ten thousand dollars. They were  
8 going to relocate him to another state and set him --  
9 set him up and he would have a new life, in essence.

10 Now, Your Honor, he comes back into  
11 Court and he says he no longer fears the police. But  
12 he's in fear of his life and his family's life.

13 Not because, Your Honor, he has  
14 received any specific threats from anyone. Because he  
15 heard from someone he did not know. Did not know their  
16 names. Someone who he was acquainted with, he may have  
17 seen around in a lounge or a bar, a club, as he called  
18 it. And they told him that there were rumors that  
19 people were going to get him.

20 And now he fears for his life  
21 again.

22 Your Honor, there were many  
23 inconsistencies in his testimony, even as he said the  
24 testimony of the part that was -- of the part that was  
25 supposed to be true.

1 In his testimony today, Curtis  
2 Collins said he left the store. He walked around the  
3 corner. Started going south on Gray.

4 He approached towards the area of  
5 the alley, the alley near the telephone, the garbage  
6 can, disposal unit, Your Honor, and at that point he  
7 heard shots. He turned and over half-a-block away he  
8 saw Mr. Hubbard running through a field.

9 His previous testimony and exam was  
10 that he got three feet from the door. And he heard the  
11 shots. His previous testimony at the exam was that he  
12 did not see Mr. Hubbard or anyone leave the Special K  
13 Store. However today, Your Honor, he says as he's  
14 leaving the store walking south on Gray, he turns and  
15 sees Mr. Hubbard and a person walking across Gray.

16 Your Honor, Mr. Collins did not  
17 also testify or explain what Mr. Hubbard was wearing.  
18 He testified that he saw the deceased. A person he  
19 identified as the deceased coming to the store with Mr.  
20 Hubbard and saw him for a very quick moment.

21 He then after hearing the shots and  
22 running back down to the area where he heard the shots  
23 coming from, which is in and of itself doesn't make a  
24 whole lot of sense, although, I don't know a lot of  
25 people that would run towards gunshots.

1 But Mr. Collins would have you  
2 believe that he ran towards the gunshots and then  
3 observed the body again and identified it as the same  
4 person that he saw Mr. Hubbard with.

5 Yet he also said that he did not  
6 see the face of a man lying in the snow. He could not  
7 testify to what he had on. He did not testify to what  
8 he had on. But he's saying it is still the same  
9 person.

10 Your Honor, there were also  
11 numerous other inconsistencies in Mr. Collins'  
12 testimony.

13 Mr. Collins took the stand today  
14 and all of a sudden had a sudden memory loss, to many  
15 of the questions asked he could not remember. From  
16 that standpoint, Your Honor, I would say, that Mr.  
17 Collins was not a very credible witness. And that's  
18 believed that Mr. Collins over two rebuttal witnesses,  
19 Your Honor, who are testifying that while he's their  
20 friend that those two rebuttal witnesses were, as Mr.  
21 Williams -- Mr. Williams is Mr. Collins' cousin. And  
22 that they were Mr. Collins' friends for numerous years  
23 and that they, Mr. Collins was with them.

24 And, two, over the alibi witnesses  
25 who in fact said that my client was with them.



1 Your Honor, I don't believe there  
2 has been a showing here beyond a reasonable doubt that  
3 in fact my client did kill with malice aforethought  
4 deliberately killed Rodnell Penn.

5 There has been no showing, Your  
6 Honor.

7 And I would ask you to dismiss this  
8 case, Your Honor.

9 MR. GONZALES: I respectfully  
10 disagree, Your Honor. And ask the Court to find the  
11 defendant guilty.

12 The evidence is clear that just  
13 because, just because the case is dismissed four years  
14 or four years, he was asked a specific question, where  
15 was he on Gray Street on January 17th, 1992. And he  
16 indicated he was not there. Anthony Smith was  
17 credible. He indicated, yes, he saw Goff. And he saw  
18 two other people out there that night and that's  
19 corroborative of Mr. Collins' testimony. And I'd ask the  
20 Court to find the defendant guilty.

21 Thank you, Your Honor.

22 THE COURT: Thank you.

23 Let's take five minutes.

24 THE DEPUTY: All rise.

25 This Court's in recess for five

1 minutes.

2 (A short break)

3 \* \* \* \*

4 THE DEPUTY: All rise for the  
5 Court.

6 Court's back in session. Please be  
7 seated.

8 This Court did have an opportunity  
9 to listen to numerous witnesses in this cause.

10 This Court did also have an  
11 opportunity to review the exhibits that were presented  
12 to the Court.

13 One of the first witnesses that was  
14 presented to this Court, in this matter was done by way  
15 of stipulation, that was the forensic pathologist, who  
16 determined that the cause of death was a gunshot wound  
17 to the head and face. And also gunshot wound to the  
18 lower back.

19 The stipulation also was that there  
20 was evidence of close range firing.

21 There was also a stipulation  
22 presented to this Court by way of the father of the  
23 victim, specifically, Lamar Rodnell Penn's father, who  
24 identified the body.

25 The first witness that was

1 presented to this Court in a live fashion was a Curtis  
2 Lionell Collins. He told this Court that he knows the  
3 defendant. He knows him as Goff. He identified him in  
4 the courtroom. Told this Court that he did see Goff  
5 back on January 17th of 1992. And that this witness  
6 had been in the area of Mack and Gray, specifically at  
7 a party store. He had seen Goff in the party store  
8 with the deceased.

9 He did testify in front of Judge  
10 Lipscomb back on February 4th of 1992. And he also  
11 made a statement to the police on January 23rd, 1992.

12 This Court had an opportunity to  
13 take a look at the transcript pages that were marked  
14 and admitted. This Court also had an opportunity to  
15 listen to the questions presented by both the  
16 prosecution, and the defense concerning those exam  
17 transcript pages. Within those pages, this witness did  
18 testify specifically that he saw the defendant come  
19 into the party store with the deceased. That he had  
20 heard gunshots, after he had left the party store.

21 He turned back after hearing the  
22 gunshots and saw Goff running away from the area; that  
23 the deceased was in on the ground. That this  
24 particular witness ran over to the victim; looked at  
25 the victim and eventually this particular witness ran

1 of Gray and Mack on January 17th, 1992. And that he  
2 saw Goff that evening talking either to the police or  
3 he was in the area where the police were. And that he  
4 saw Goff wearing a Raider Jacket and that a few words  
5 were spoken to Goff, such as, what is up or what is  
6 happening.

7 Leon Penn was the next witness that  
8 took the the stand, and told this Court that he's  
9 thirty-two years old. He told this Court that he was  
10 the brother of the deceased. That he did in fact know  
11 Goff or Carl Hubbard.

12 He did tell this Court that on  
13 January 16th, I think he stated was the date, that he  
14 saw Carl Hubbard with Rodnell. He did hear some word  
15 spoken by Mr. Hubbard to the effect that I will see you  
16 tomorrow. And that he had seen his brother sale drugs  
17 for the defendant, Mr. Hubbard. And that they, Mr.  
18 Hubbard and Mr. Penn, the deceased, had been together  
19 for a couple of years selling crack.

20 Tracey Sewell took the stand and  
21 told this Court that she's a police officer and has  
22 been for approximately six years. That she responded  
23 to a radio run, a shooting in the area of Gray and  
24 Mack.

25 She told this Court when she got

1 away himself and got in a cab and left the area.

2 He did also specifically tell this  
3 Court that he had an opportunity to see the scar on the  
4 back of the head of the defendant, as he ran away from  
5 the area of the deceased.

6 I should state that this Court had  
7 an opportunity to examine Mr. Collins while he  
8 testified.

9 This Court had an opportunity to  
10 look at his demeanor; listen to him while he talked  
11 about how there were threats on the street to him and  
12 his family members.

13 I would state for the record that  
14 he did look quite nervous while he was in fact  
15 testifying.

16 And I do agree with Mr. Giles when  
17 he states that Mr. Collins' testimony at times was very  
18 conflicting and down right lying to this Court.

19 He did tell this Court today as to  
20 the reasons as to why he lied two days ago in this  
21 courtroom.

22 One of the next witnesses that took  
23 the stand was a John Trammel. He said that he knew  
24 Carl Hubbard as Goft. He did not know his real name.  
25 But that he had an opportunity also to be in the area

1 there, she saw a man lying in the street in front of  
2 3960 Gray. That he had been shot in the face and that  
3 there was blood all over his jacket.

4 And she had an opportunity to watch  
5 the EMS take the jacket and hood off of the deceased.  
6 And she told this Court how she also picked up a slug  
7 in the area.

8 Officer Craig Turner took the stand  
9 and told this Court that he had been working as a  
10 police officer for approximately seven and a half  
11 years.

12 And he had an opportunity to be  
13 working on the night of January 17th, 1992.

14 He said he was working with his  
15 partner, both were in plain clothes in a semi-marked  
16 vehicle. This officer told this Court that he had an  
17 opportunity to see the defendant, Mr. Hubbard that  
18 night and Mr. Hubbard had asked this particular officer  
19 what had happened.

20 The officer told Mr. Hubbard that  
21 there was a homicide; that this defendant left the area  
22 and then returned about ten minutes later. And asked  
23 if it was one of the guys from the neighborhood and  
24 also asked if he was dead.

25 He also told the officer that the

1        Back and Gray area was cold. And this particular  
2        officer said that he saw the defendant on that evening  
3        wearing a gray jacket with an attached hood.

4                He also told this Court that the  
5        defendant would not allow himself to be placed into the  
6        back of the car.

7                He told this Court that this  
8        defendant gave this officer the impression of a faked  
9        shock when this officer told the defendant that the  
10       deceased was in fact dead.

11               This officer told the Court that he  
12       has known the defendant for approximately three or four  
13       years but he -- because he has had an opportunity to  
14       actually talk to the defendant who is out on the  
15       streets in the evening practically every night.

16               Officer Randy Richardson took the  
17       stand and told this Court that he is with the crime  
18       scene unit. That he in essence is an evidence  
19       technician. He told this Court how he took gunshot  
20       residue tests with regard to four individuals and he  
21       was the one who took the photographs, or at least had  
22       the opportunity to be present when photographs were  
23       taken.

24               And he had the opportunity to make  
25       the sketches in the area.

1 Andrew Smith took the stand and  
2 told this Court that he's twenty years old and he  
3 identified the defendant, Mr. Hubbard.

4 He said that he had the opportunity  
5 to see Mr. Hubbard also in the area of Gray and Mack on  
6 January 17th.

7 He told this Court that he had also  
8 heard shots that evening and he also had an opportunity  
9 to see the deceased laying on the ground.

10 A Miss Luzinda Gross told this  
11 Court that she lives in the area of Gray and Mack and  
12 she is forty-four years old.

13 And that she told this Court that  
14 she was walking to the store on that particular evening  
15 and saw the body in the snow.

16 This Court did receive into  
17 evidence the constitutional rights and statement that  
18 was made by Mr. Hubbard, specifically, Exhibits, I  
19 think it was 23, 24 and 25.

20 This Court also had an opportunity  
21 to listen to the testimony of Christopher Harris.

22 He told this Court that back in  
23 January of '92, he happened to be twenty-two years old.  
24 That he was the cousin of the deceased Mr. Penn.

25 And that on this particular evening



12 1 he had an opportunity to talk to and be with Rodnell  
2 Penn. And that Rodnell was to help him setup for a  
3 caberet on that particular evening. I think it was his  
4 understanding that his cousin on that particular  
5 evening had about two hundred dollars on him. I think  
6 he also indicated to the Court that his cousin was  
7 involved in the sale of drugs.

8 Shanta Holcomb also took the stand  
9 and really could not offer too much to this Court.

10 This Court does recall that there  
11 were objections to an argument centering around an  
12 excited utterance. But she told this Court that she  
13 did in fact know Mr. Penn and she did see Mr. Penn on  
14 the 16th of January of '92; but she did not know Goff.

15 Mr. Collins again took the stand  
16 and told this Court as to why he lied on Monday. And  
17 told this Court that he was ready and willing to tell  
18 the truth. And basically enumerated all the things  
19 that he told Judge Lipscomb were in fact the truth and  
20 everything in his statement was in fact true.

21 There was a stipulation presented  
22 to this Court as a result of the Assistant Prosecutor  
23 Glenn Paige not testifying.

24 This Court does recall the  
25 stipulation as to how a case was dismissed against the

1 defendant Mr. Hubbard as a result of one of the  
2 witnesses, Rodnell Penn, not showing up to testify.

3 One of the first defense witnesses  
4 that took the stand was a Mr. Raymond Williams. He  
5 told this Court the that he also had an opportunity to  
6 be a friend of witness Collins. That he had been best  
7 friends with him for seven or eight years.

8 He told this Court how they were  
9 all gambling on January 17th, in the evening. And that  
10 he had an opportunity to, that evening, to go see the  
11 movie Juice at approximately 10:05, 10:08.

12 Mr. Collins was with him and not on  
13 the street on that particular evening.

14 Mr. Roney Fulton took the stand and  
15 gave his version as to what took place and his memory  
16 centering in and around January 17th.

17 Mr. and Mrs. Spells also took the  
18 stand. Mr. Spells told this Court that he is in fact a  
19 friend of Mr. Hubbard. And that Mr. Hubbard was in  
20 fact with him on the night of January 17th. And the  
21 only time that they left the house was to go to the  
22 mother's house. And they went to the mother's house.  
23 They in fact saw an ambulance on Gray Street.

24 He told this Court that he was with  
25 Carl Hubbard for most of the evening.

1 He did tell this Court that one of  
2 the detectives talked to Carl Hubbard.

3 Again Mrs. Spells took the stand  
4 and she told this Court that she's in fact a friend of  
5 the defendant for approximately a year.

6 She told this Court that Mr.  
7 Hubbard and her husband left the house but only for a  
8 half hour.

9 This Court has had an opportunity  
10 to take a look at the confession. I shouldn't say the  
11 confession, but rather a statement that was made to the  
12 police by this defendant Mr. Hubbard.

13 Mr. Hubbard in essence was asked  
14 when was the last time you saw Rodnell Penn. The  
15 answer on this statement was: The last time I saw  
16 Rodnell Penn was back in the '80's.

17 And since then I only saw his older  
18 brother name Walter Penn.

19 He also went on to state that he  
20 didn't know anything about a killing.

21 He also stated that he did not see  
22 the deceased on January 17, 1992. And he also stated  
23 that he was not in the area on Gray and Mack on January  
24 17th, 1992.

25 Specifically the question was

1 asked: Were you on Gray Street, Friday January 17th,  
2 1992.

3 And the answer to that question  
4 specifically was: No.

5 Also do you know anything about a  
6 shooting that happened on Gray, on Friday, January  
7 17th, 1992? The answer was: No.

8 The prosecution did in fact during  
9 the course of this case argue motive.

10 This Court does understand that  
11 motive is not one of the elements that need to be  
12 proven to the Court.

13 I would state that the elements  
14 that have to be proven to this Court, beyond a  
15 reasonable doubt is that the deceased did in fact die  
16 of gunshot wounds. That the defendant must have had  
17 the state of mind or the intent to kill and that that  
18 killing and that intent was done with premeditation and  
19 deliberations. Also with malice aforethought. And  
20 that the killing was not justified in any manner.

21 I would state to both the  
22 prosecutor and to Mr. Giles, specifically Mr. Giles, I  
23 thought Mr. Giles did a excellent job in representing  
24 his client. However, one of things that Mr. Giles  
25 cannot change is the facts of this case; that he cannot

1 produce any magic in changing the facts.

2 Due to the fact that the  
3 prosecution, I see on the Information, has charged Mr.  
4 Hubbard with a count of felony firearm, specifically  
5 felony must be committed with a firearm; they have  
6 listed in the Information a handgun.

7 This Court has not seen a handgun.  
8 There has been no exhibit marked as a handgun. I don't  
9 know as a result of this close range firing that this  
10 was a saw-off rifle; what the length of any gun might  
11 have been.

12 I do not believe that the People  
13 have satisfied Count 2 to this Court.

14 However, this Court does believe  
15 after looking at all of the elements and listening to  
16 all the facts in this case that all of the elements of  
17 murder in the First Degree have been satisfied to this  
18 Court beyond a reasonable doubt.

19 That is what this Court is going to  
20 find Mr. Hubbard guilty of is Murder in the First  
21 Degree.

22 As a result of this Court so  
23 finding, Mr. Hubbard is going to have to come back for  
24 sentencing on the date of September 22, 1922. 9:00 in  
25 the morning.

1 Be's going to be remanded to the  
2 Wayne County Jail until sentencing.

3 MR. GONZALES: Thank you, Your  
4 Honor.

5 THE COURT: Thank you both for  
6 doing a great job.

7 (The proceedings concluded)

8  
9 \* \* \* \*

